

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 05, 2009

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PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventy-second day of the One Hundred First Legislature, First Session. Our pastor for today is Mary Ellen Gaither from the First Presbyterian Church in Humboldt, Nebraska, Senator Heidemann's district. Would you all please rise. []

PASTOR GAITHER: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Pastor Gaither. I call to order the seventy-second day of the One Hundred First Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk. []

CLERK: I have a quorum present, Mr. President. []

PRESIDENT SHEEHY: Are there corrections for the Journal? []

CLERK: I have no corrections. []

PRESIDENT SHEEHY: Any messages, reports, or announcements? []

CLERK: Mr. President, new resolution. Senator Lathrop offers LR107. That will be laid over. Enrollment and Review reports LB224, LB232, LB545 and LB187 to Select File. Enrollment and Review also reports LB92, LB97, LB188, LB237, LB237A, LB286, LB402, LB495, LB497, LB497A, LB603, LB603A, and LB653 as correctly engrossed. Notice of hearing from the General Affairs Committee, signed by Senator Karpisek as Chair. Two announcements, Mr. President. Senator Adams would like to have a meeting of the Education Committee 15 minutes following the morning adjournment, Education Committee 15 minutes following morning adjournment. And Senator Friend will have an Urban Affairs meeting at 2:30 today, 2:30. That's all that I have, Mr. President. (Legislative Journal pages 1283-1292.) [LR107 LB224 LB232 LB545 LB187 LB92 LB97 LB188 LB237 LB237A LB286 LB402 LB495 LB497 LB497A LB603 LB603A LB653]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to first item under General File, appropriation bills, LB97A. [LB97A]

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CLERK: LB97A is a bill by Senator Lautenbaugh. (Title read.) [LB97A]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're recognized to open on LB97A. [LB97A]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. As careful observers of the Legislature this session will note, Senator Stuthman and I have been working together on an aggressive agenda of roadside trapping, cigar smoking, and transportation, and elder care issues. And this was really the final piece of that package. This was a bill that Senator Stuthman added to my LB97 which created an A bill. So I will turn this over to Senator Stuthman for discussion of how it's smaller than it looks. Thank you. [LB97A LB97]

PRESIDENT SHEEHY: Senator Stuthman, you're yielded 9:20. [LB97A]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. And also thank you, Senator Lautenbaugh, for allowing me to put this amendment onto your bill. And this bill is the one that, that appropriates some money. It's for the background checks. And I'll just talk a little bit about...familiarize you people again with what my bill was. My bill was for that, people that contract services with HHS for the foster care for transportation of some of these vulnerable youth. What that bill did was initiate the fact that there needs to be some background checks, criminal history, on these individuals that contract for services for these children. We do not want to see some of these smaller children placed in a vehicle that the driver that was hired by the contract service, you know, to possibly have some criminal history. So what this does, what this A bill does, it appropriates \$76,000 from the Nebraska State Patrol Cash Fund to the State Patrol. Of this amount, \$22,500 is for salaries. The cash fund appropriation is for the State Patrol to conduct the criminal history checks. This is what, what this bill does and I think this is very, very important. Mainly because we're very concerned about the fact that we do not want some of these children being moved, being taken to their parents or guardian from a foster home to, for a visitation. You know, I think that's the most important thing that we have to keep in mind is the fact that we are really concerned about these children when they're being transported. So I think this is a very important bill and I feel that all of you also feel that, because in my mind we need to take care and protect these youths, these vulnerable youths, to the point that we want to make sure that they get to their place of destination, you know, safety. And that we can trust that and that we want to make sure that the contract services that are being provided and being contracted with, with the HHS are honest, reliable people. So with that, I ask for your adoption and your vote on this amendment. Thank you. [LB97A]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. You've heard the opening to LB97A. (Visitors introduced.) Are there members requesting to speak on LB97A?

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Seeing none, Senator Lautenbaugh, you're recognized to close. Senator Lautenbaugh waives closing. The question before the body is on the advancement of LB97A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB97A]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB97A. [LB97A]

PRESIDENT SHEEHY: LB97A advances. We will now proceed to LB246A. [LB97A LB246A]

CLERK: LB246A is a bill by Senator Dubas. (Title read.) [LB246A]

PRESIDENT SHEEHY: Senator Dubas, you're recognized to open on LB264A. [LB246A]

SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor and members of the body. LB246A is just the funding mechanism for the statewide strategic plan to look at the biotechnology industry in our state. It's the language that allows the appropriations of public/private dollars, along with state dollars. And I will be meeting with UNL later this week to continue this discussion on the private funding. I appreciate the body's support on LB246A. [LB246A]

PRESIDENT SHEEHY: Thank you, Senator Dubas. You've heard the opening to LB246A. Are there members requesting to speak? Seeing none, Senator Dubas you're recognized to close. Senator Dubas waives closing. The question before the body is on the advancement of LB246A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB246A]

CLERK: 32 ayes, 0 nays, on the advancement of LB246A. [LB246A]

PRESIDENT SHEEHY: LB246A advances. We will now proceed to LB342A. [LB246A LB342A]

CLERK: LB342A by Senator Gay. (Title read.) [LB342A]

PRESIDENT SHEEHY: Senator Gay, you're recognized to open on LB342A. [LB342A]

SENATOR GAY: Thank you, Mr. President. LB342A is the appropriation to the pediatric feeding tube bill. And what this does, this actual savings if the waiver is granted, this would be the estimated savings that we would have from that bill. I'm prepared to answer any questions if there are any. Thank you, Mr. President. [LB342A]

PRESIDENT SHEEHY: Thank you, Senator Gay. You have heard the opening to LB342A. Are there members requesting to speak? Seeing none, Senator Gay you're

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recognized to close. Senator Gay waives closing. The question before the body is on the advancement of LB342A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB342A]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB342A]

PRESIDENT SHEEHY: LB342A advances. We will now proceed to LB633A. [LB342A LB633A]

CLERK: LB633A by Senator Mello. (Title read.) [LB633A]

PRESIDENT SHEEHY: Senator Mello, you're recognized to open on LB633A. [LB633A]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. LB633A is an appropriation bill that we discussed during General File last week. It would distribute \$125,000 a year for the next four years to the College of Public Affairs and Community Services at the University of Nebraska-Omaha to administer the Nebraska, the Neighborhood Development Act. As I said last week during the General File debate, I'm working with Senator Heidemann and the Fiscal Office to find an appropriate cash fund to use instead of General Fund appropriation. I would urge my colleagues to advance LB633A to Select File. [LB633A]

PRESIDENT SHEEHY: Thank you, Senator Mello. You have heard the opening to LB633A. Are there members requesting to speak? Seeing none, Senator Mello, you're recognized to close. Senator Mello waives closing. The question before the body is on the advancement of LB633A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB633A]

CLERK: 33 ayes, 0 nays, on the advancement of the A bill, Mr. President. [LB633A]

PRESIDENT SHEEHY: LB633A advances. We will now proceed to LB671A. [LB633A LB671A]

CLERK: LB671A is by Senator Pirsch. (Title read.) [LB671A]

PRESIDENT SHEEHY: Senator Pirsch, you're recognized to open on LB671A. [LB671A]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. This is a nominal A bill with respect to the Nebraska County Attorneys Standards Advisory Council we're configuring that to, as part of the death investigation bill to lead to higher quality integrity throughout the state. Since we are increasing the board, I'm sorry, the council members by four, this is simply for mileage to drive to Lincoln for the meetings.

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And so it is a very nominal appropriation. The total, I think, it's \$3,300 in '09-10 and then \$1,900, I'm sorry, \$1,980 in fiscal year '10-11. So I would ask for your vote on this. Thank you. [LB671A]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. You've heard the opening to LB671A. Are there members requesting to speak? Seeing none, Senator Pirsch you're recognized to close. Senator Pirsch waives closing. The question before the body is on the advancement of LB671A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB671A]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of the A bill. [LB671A]

PRESIDENT SHEEHY: LB671A advances. We will now to proceed to items under Select File, appropriations bill, LB198A. [LB671A LB198A]

CLERK: LB198A is on Select File, Mr. President. No E&Rs. Senator Stuthman would move to amend, AM1277. (Legislative Journal page 1293.) [LB198A]

PRESIDENT SHEEHY: Senator Stuthman, you're recognized to open on AM1277 to LB198A. [LB198A]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I had initially, when we had passed LB198 on to Select File and LB198A, originally there was the possibility that it could cost...that General Fund appropriations of \$55,000. In LB198, we did take away several of the duties of the State Fire Marshal and we felt that there wouldn't be near the expense to it at that time. So in looking at what has done here instead of the \$55,000 that was to come from the General Fund, we have eliminated any participation of the General Fund and we have appropriated \$30,568 from the Fire Marshal Cash Fund for '09-10 and \$55,175 from the Reduced Cigarette Ignition Propensity Fund for 2010 and 2011 to the State Fire Marshal for Program 197. What this does is, as I would like to inform you, is the fact that there will be some filing fees, some certificates, some registration fees from the tobacco companies that will go to the State Fire Marshal and that money is to be utilized for this. So this is the reason why we're utilizing the money from the Fire Marshal, State Fire Marshal's Cash Fund initially, and then it will be repaid back when the money comes in from these tobacco companies as they certify their cigarettes and cigarette products. So there is no General Fund money needed for this program at this time. And I hope there will never be, because of the fact that it will generate sufficient income to sustain itself. These total expenditures are for permanent and temporary salaries, you know, and per diems from funds appropriated in this section. And so I'd ask for your support for this amendment. Thank you, Mr. President. [LB198A LB198]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. You have heard the opening of

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AM1277 to LB198A. Members requesting to speak, Senator Wallman, you're recognized. [LB198A]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Would Senator Stuthman be open to questions? [LB198A]

PRESIDENT SHEEHY: Senator Stuthman, would you yield to questions? [LB198A]

SENATOR STUTHMAN: Yes. [LB198A]

SENATOR WALLMAN: Thank you, Mr. President. Senator Stuthman, in regards to this fund, this cash fund from the State Fire, would that put the State Fire Marshal in straits as far as financialwise? [LB198A]

SENATOR STUTHMAN: The...I'm sure that the State Fire Marshal, we feel...you know, they have a cash fund and they'll just be having to utilize those \$30,000 from that cash fund for the first year until we get, until we get some money from these registration fees, these certificates that are issued to tobacco companies. And I think that amount was like \$230,000 is what we're hoping to generate for the State Fire Marshal and they can utilize that money, which is the real intent of those registration fees from those cigarette companies. [LB198A]

SENATOR WALLMAN: And is the Fire Marshal okay with that? [LB198A]

SENATOR STUTHMAN: Yes, yes, they're in agreement with that. [LB198A]

SENATOR WALLMAN: Okay. Thank you, Senator Stuthman. Thank you, Mr. President. [LB198A]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Seeing no additional requests to speak, Senator Stuthman you're recognized to close. Senator Stuthman waives closing. The question before the body is on the adoption of AM1277 to LB198A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB198A]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Stuthman's amendment. [LB198A]

PRESIDENT SHEEHY: AM1277 is adopted. [LB198A]

CLERK: Senator Nordquist, I have nothing further on the bill, Senator. [LB198A]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB198A]

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SENATOR NORDQUIST: Mr. President, I move LB198A to E&R for engrossing.
[LB198A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye.
Opposed, nay. LB198A advances. (Visitors introduced.) We will now proceed to items
under General File, the budget bill, LB311. [LB198A LB311]

CLERK: Mr. President, LB311 is a bill introduced by the Speaker at the request of the
Governor. (Title read.) The bill was referred to the Appropriations Committee, advanced
to General File. There are Appropriations Committee amendments, Mr. President.
(AM886, Legislative Journal page 1252.) [LB311]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Flood, you're recognized to open
on LB311. Senator Heidemann, you'll be doing the opening on LB311? [LB311]

SENATOR HEIDEMANN: Yes. Thank you, Mr. President and fellow members of the
body. This is the beginning of a long line of budget bills. The first few are fairly
noncontroversial. As we move down the road there probably will be more discussion on
the bills, especially probably when we get to LB315. This first bill, LB311 is what we call
the deficit bill. The bill makes adjustments to funding for state operations, aid and
construction programs in the current fiscal year ending June 30, 2009. The
appropriations will be used in programs where the forecast cost has risen or decreased
due to circumstances that were unforeseen when the budget bills were passed two
years ago and subsequently amended by the Legislature in 2008. I urge your adoption
of LB311. [LB311 LB315]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. You have heard the opening
to LB311. As was stated, we do have an Appropriations Committee AM886. Senator
Heidemann, you're recognized to open on AM886. [LB311]

SENATOR HEIDEMANN: AM886 is...just reflects the Appropriations input on LB311,
the deficit bills. But once again, I have referred to you how the deficit bill either takes
into account the increased costs or the decreased costs. This year we're actually
looking at, I believe, more of a decrease in the costs, which will help our bottom line. I
do urge you...the adoption of AM886 to LB311. [LB311]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. You've heard the opening of
the Appropriations Committee AM886 to LB311. Member requesting to speak, Senator
White, you're recognized. [LB311]

SENATOR WHITE: Thank you, Mr. President. Would Senator Heidemann be kind
enough to yield to some questions? [LB311]

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PRESIDENT SHEEHY: Senator Heidemann, would you yield to questions? [LB311]

SENATOR HEIDEMANN: Yes. [LB311]

SENATOR WHITE: Senator Heidemann, in this biennium budget, how much money are we receiving from the federal government under the stimulus package to help us run the state government? [LB311]

SENATOR HEIDEMANN: It was in excess of \$500 million. [LB311]

SENATOR WHITE: How much, sir, I'm sorry. [LB311]

SENATOR HEIDEMANN: In excess of...well, over three years, over \$500 million. [LB311]

SENATOR WHITE: Okay, \$500 million over three years. What would our budget look like if that stimulus package had not been passed? [LB311]

SENATOR HEIDEMANN: It would have made the Appropriations Committee process a lot more difficult and this body's a lot more difficult. There would have been a lot of agencies and programs that would have to be further reduced in what we've already had to do them, and there would be no money left in the Cash Reserve. [LB311]

SENATOR WHITE: Okay. So we would exhaust the Cash Reserve, we would cut school funding, we would cut funding to mental health and human services, things like that. [LB311]

SENATOR HEIDEMANN: It's a possibility. I don't know which direction the body would have went with that but it would have made life difficult, yes. [LB311]

SENATOR WHITE: That or raise taxes, correct? [LB311]

SENATOR HEIDEMANN: That's always another alternative, yes. [LB311]

SENATOR WHITE: All right. One of the things I'd like the members as we debate this budget to understand, we have over \$500 million from the federal government and as tough times as we've had, that is the only reason we are not, in fact, laying off teachers, we are not closing down different kinds of healthcare, home services and other issues. We remain in very tough economic times and we made some choices, not all of which I'll agree with, and we'll need to talk about as we move through the budget. But because of the federal stimulus package, we are not facing the horrible crisis and loss of services we would otherwise. And I'd like to thank Senator Nelson publicly for voting for it. I note he was the only member of our Congressional delegation that did so. But as you move

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through this budget today, know he has taken political hits for it, but recognize that each and every one of us would have to be looking at teachers, our high schools, our hospitals, our elderly, and tell them, there's nothing for you for the next two years but for that decision. Thank you, Mr. President. [LB311]

PRESIDENT SHEEHY: Thank you, Senator White. Seeing no additional requests to speak, Senator Heidemann, you're recognized to close on AM886. Senator Heidemann waives closing. The question before the body is on the adoption of the Appropriations Committee AM886 to LB311. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB311]

CLERK: 35 ayes, 0 nays, on the adoption of committee amendments, Mr. President. [LB311]

PRESIDENT SHEEHY: AM886 is adopted. We will now resume floor discussion to LB311. Members requesting to speak, Senator White, you're recognized. [LB311]

SENATOR WHITE: Thank you, Mr. President. Would Senator Heidemann yield to some questions? [LB311]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator White? [LB311]

SENATOR HEIDEMANN: Yes. [LB311]

SENATOR WHITE: Senator Heidemann, thank you for your courtesy. This is a deficit appropriation. Senator Heidemann, can you please identify the various agencies that ran deficits, the amount, and what was the cause of those deficits? I mean, we are in fiscally tough times and it behooves us to make sure that our government has been run well and efficiently. [LB311]

SENATOR HEIDEMANN: The majority of this is going to come off of recollection and this is pretty, is going to be pretty broad. I will tell you that actually this year a lot of agencies are turning in, it wouldn't be as a deficit but actually turning money back to state government that costs that didn't occur that we thought that was going to occur. There were certain agencies and I've got people that are listening to me and hopefully they correct me, but Corrections might be one where actually we had to increase, increase money going to them because there were costs incurred that we wasn't quite, we wasn't quite aware that was going to happen. Between...I believe, if you go to page 98 in your Budget Book, you'll see a whole listing of everything from...a lot of them was Health and Human Services, some on the negative side, some on the positive side. Once again I did mention Corrections, you can see that, DAS, CIR, TERC and also Attorney General and education actually are the agencies that appear to be affected. [LB311]

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SENATOR WHITE: Thank you, Senator. Let me run through page 98. Why don't we take a look at, if you would please, the HHS system entries. The BSDC Action Plan, community based DD facility surveys, is that \$100,250 that's a deficit funding we had to make? [LB311]

SENATOR HEIDEMANN: That is an increase in funding, yes. [LB311]

SENATOR WHITE: Okay. What did we get for that \$100,000? [LB311]

SENATOR HEIDEMANN: I don't quite get into that detail. [LB311]

SENATOR WHITE: So we don't know. Okay. How about BSDC Action Plan, \$6,899,750. What was that for? [LB311]

SENATOR HEIDEMANN: Just one moment. If you look at the top of page 97 it describes in somewhat detail the BSDC Action Plan. [LB311]

SENATOR WHITE: Well, it says a \$7 million deficit appropriation. Now, can you tell us what caused the bust under the budgeted amount, because they've dropped the number of patients at BSDC substantially. So what caused the cost overrun if the number of patients has dropped and the waiting list has exploded? [LB311]

SENATOR HEIDEMANN: I think some of that money is being spent to try to meet federal guidelines and regulations as not to lose our certification and there was more money needed in order to do that. [LB311]

SENATOR WHITE: Well, what...I mean, not lose our certification. We've actually been...lost it. We're just on appeal, correct? [LB311]

SENATOR HEIDEMANN: I believe that's correct, yes. [LB311]

SENATOR WHITE: All right. Now, if we actually have...don't get that back, that will create another \$25 million a year hole for us that we'll have to fund next year, correct? [LB311]

SENATOR HEIDEMANN: Yes, and that would reflect...we have that in our budget, it reflects in our budget. [LB311]

SENATOR WHITE: All right. Now, this is the question that I have and it's difficult. I'm not on your committee and I know what a heavy load you all carry. I have great respect for that. But in economically tough times we have to be particularly careful... [LB311]

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PRESIDENT SHEEHY: One minute. [LB311]

SENATOR WHITE: ...managers, and what we're seeing here is HHS is running a system that has done a dismal job of taking care of people to the point where they're being sued for civil rights violations, and yet they're running huge deficits at the same time. Did anybody come before your committee from HHS and explain what went wrong and what they're doing to fix it? Because right now all we're doing is throwing money at a problem and I don't have any clue that the underlying problem has been solved. [LB311]

SENATOR HEIDEMANN: There we have, we have had various briefings. There have been briefings, I think, for the full Legislature about what is happening at Beatrice, probably some plans were laid forth about corrective actions, about where they want to be and how they want to get there. [LB311]

PRESIDENT SHEEHY: Time, Senator. Members requesting to speak on LB311, we have Senator Haar, followed by Senator Gay, Senator White, and Senator Harms. Senator Haar, you're recognized. [LB311]

SENATOR HAAR: Mr. President and members of the body, I'd like to yield my time to Senator White. I found interesting his questions. [LB311]

PRESIDENT SHEEHY: Senator White, you're yielded 4:50. [LB311]

SENATOR WHITE: Thank you. Well, Senator Heidemann, let me be really just specific, because you know generalities when you're spending this kind of money don't always solve the real problem. Let's talk about a specific situation or two that was identified in the Bush administration's Department of Justice report on Beatrice. There was a patient who was dropped, broke both of her legs, and spent almost a week without medical care. What specifically has HHS done to ensure that there is no repeat of that kind of abuse? [LB311]

SENATOR HEIDEMANN: I think there have been several corrective measures taken. I think there have been plans put forth to how, to make sure things like this would never happen again. I think even though we appropriate money when it comes to this, this is somewhat under the Health and Human Services Committee jurisdiction. There is a task force that deals with Beatrice. I think there are people watching over them, and I believe that the questions probably would be better directed toward them than to me that their extensive, their knowledge would be far more extensive than mine. [LB311]

SENATOR WHITE: Well, Senator Heidemann, would you agree that if nothing concrete has been done to solve the underlying problems, that we shouldn't just be throwing money at people who have in the past, at least, proven themselves to be not only

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incompetent stewards of the money, but callous stewards of our vulnerable citizens. In other words, if it's not fixed, don't just keep throwing money at it. [LB311]

SENATOR HEIDEMANN: I think those discussions come up in Appropriations quite a bit whether you're dealing with Beatrice. There's a lot of things that come our way, Beatrice is one of them this year, the retirement shortfalls that, our liability on that plan. My first year in the Legislature we had to deal with a low-level nuclear waste dump issue which cost the state \$150 million. There's various things that come before the Appropriations Committee and the Legislature that sometimes you probably question the amount of money going toward them, and we always want to make sure that we're not just throwing money at a problem. That discussion can always be had though if you so desire. [LB311]

SENATOR WHITE: Well, one of the base problems identified by some of the folks who looked into Beatrice was, for years we had not given any raises or at least not meaningful raises to employees. We had systematically cut staff, tried to solve it by mandatory forced overtime. That results in things like people being dropped because, one, people are tired, and two, there aren't enough of them to safely lift them. Can you assure this body that HHS has now fully and appropriately staffed Beatrice and that this money is going to that end? [LB311]

SENATOR HEIDEMANN: I don't know if positions have ever been actually cut. I know there was a problem in Beatrice as far as being able to retain the staff that they...was trying to maintain at Beatrice to maintain operations. There was overtime being worked because of not being able to retain staff. [LB311]

SENATOR WHITE: And that's because they weren't paying enough. [LB311]

SENATOR HEIDEMANN: There...that could be caused by various different things, whether...and I take the prison at Tecumseh as an instance. You have a certain base of people that are in a surrounding area that will work at a facility. If you go through that population that is there, you have to attract new people into that locale to actually to work at a facility. So whether there's, you know,... [LB311]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR HEIDEMANN: ...if you've gone through the population say around the Beatrice area, you have to actually have to bring more people in to fill in those spots. And maybe that's what could have been part of it also. [LB311]

SENATOR WHITE: Well, I agree with you and hopefully that's been done. Would Senator Lathrop yield to a question, please? [LB311]

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PRESIDENT SHEEHY: Senator Lathrop, would you yield to questions? [LB311]

SENATOR LATHROP: Yes, I will. [LB311]

SENATOR WHITE: Senator Lathrop, you're chair of the special committee on the Beatrice hospital, correct? [LB311]

SENATOR LATHROP: That's true. [LB311]

SENATOR WHITE: What has been done to solve the underlying problem of not enough people in the positions? Have a lot of this money we're throwing at them, is that going to go to better wages and better conditions to attract people into those jobs? [LB311]

SENATOR LATHROP: It is difficult to tell exactly what's been done to resolve the problems that led to the medical issues like the young lady that was dropped, the person that died in March '08, and the unfortunate death of Olivia Manes in January. That has been a continuing frustration. [LB311]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator White. Thank you, Senator Lathrop. Senator Gay, you're recognized. [LB311]

SENATOR GAY: Thank you, Mr. President. I just heard Senator White discussing some HHS issues and be more than happy to answer any of those. I do think...and I'm glad Senator Lathrop discussing the BSDC. I just hit my light really to answer any questions if I could. I think there's some definite opportunities happening. Senator Lathrop and the Beatrice State Development Committee is extended for two years and there's a lot of information we're gathering there. But what I'd do, I'd yield Senator Lathrop some time to finish that question if he'd like. [LB311]

PRESIDENT SHEEHY: Senator Lathrop, you're yielded 4:25. [LB311]

SENATOR LATHROP: Thank you, Senator Gay. And to return to the discussion prompted by Senator White's question, I will speak for myself as a member of the LR11 committee that it continues to be a frustration to find out exactly what is being done. When Health and Human Services came down to the Appropriations Committee and said they needed \$32 million, they came there with no, with no budget for it. They just said, we need \$32 million. And that was notwithstanding a request by the committee, and I think a letter by Senator Nordquist that asked for the detail, as well as me asking for the detail. And frankly, it wasn't until we brought it up on the floor that we got some detail. And I say some because, frankly, my own observation is I still don't have a sense that there is a plan to take us from the dark days. And the benchmarks that we're looking for that demonstrate some improvement are hard to put our finger on because it's difficult to get answers out of Health and Human Services about those. They have

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done some things, Senator White, that are improvements having...getting the CEO out and having the temporary CEO come in seems to be an improvement, but it's difficult for us to put our finger on. Are we putting all the people in place? A lot of the doctors that we hire are hired on a temporary basis and we had one come and go in about a months time. And so the professional, the core of professionals at BSDC is difficult to assess because many of them are here on a temporary basis and stay a short time before they leave. I could go into a long litany about the problems and how they got here. I mean, it didn't make sense to me that we'd close the hospital at BSDC to try to save money. And then when things deteriorated and the DOJ said, we need an agreement, and this was something we looked at last week, we had an agreement that required that we do an assessment of people and that agreement was signed in July of '08 and we didn't even hire the guy to do those assessments until January of '09. So are we on the road to solving the problems? The short answer is, it's difficult to tell. [LB311]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. (Visitors introduced.) Resuming floor discussion on LB311, members requesting to speak are Senator White, followed by Senator Harms, Senator Wallman, Senator Wightman, Senator Fulton, and others. Senator White, you're recognized. [LB311]

SENATOR WHITE: Thank you, Mr. President. I've asked the members to look at page 98. And I'd like an explanation of this because I surely hope what I'm reading isn't correct. One of the underlying problems identified to us in Business and Labor talking to employees at the Beatrice home was that they were understaffed, they didn't pay enough money even though there were recruitment bonuses available, they didn't attract enough new people. The people they did attract weren't of a good quality and they lost them rapidly. That caused forced overtime and really poor care. Not that people individually didn't want to do better, they did. They just weren't given the tools. Okay. So one of the underlying problems was, not enough folks. Take a look at this. If you look at HHS system, BSDC Action Plan, BSDC amount \$6,899,750. That's what we paid for a plan. And then if you go down, recruitment and retention incentives, which has to mean employees, we're throwing a whole \$37,000 at it. You know what that's like? That's like hiring an architect for almost \$7 million to design a grand house and then you got \$37,000 to build it. Now, I hope I'm wrong. And if Senator Heidemann would please yield to a question, perhaps he can disabuse me of the notion that we spent \$7 million planning and \$37,000 doing. [LB311]

PRESIDENT SHEEHY: Senator Heidemann, would you yield? [LB311]

SENATOR HEIDEMANN: Yes. [LB311]

SENATOR WHITE: Senator Heidemann, if you look on page 98, the Action Plan, apparently some study, we paid \$6,899,000, almost \$7 million for it. Is that an accurate interpretation of that entry? [LB311]

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SENATOR HEIDEMANN: I would have to guess that's money that was going to pay for the plan. [LB311]

SENATOR WHITE: Well, but if there's an Action Plan, what is it? I mean, if there's an Action Plan for BSDC, I'd sure like to know it before we fund it. If it was just to pay to get an Action Plan, then I'd like to know that. [LB311]

SENATOR HEIDEMANN: Could you repeat the question one more time. I was... [LB311]

SENATOR WHITE: You bet. I'm seeing an entry for almost \$7 million for an Action Plan. I assume, since nobody can tell me what the plan is, that's money to figure out the plan. But if the plan has already been done and we're funding it, what are we funding? What is that plan? Because Senator Lathrop, who is the Chair of the Beatrice committee, says he doesn't have a clue of what the road is that we're on. So if there's a plan out there, I want to know what it is. [LB311]

SENATOR HEIDEMANN: There's various things. It actually is to carry out the plan. It isn't the plan itself that costs that kind of money. You have intermanagement team, clinical assessments, temporary medical clinical staff. There's transition costs in there. I think Senator Gay just walked back, which would be a good reference point for you. The Community Action Plan is involved in that. It looks like there's nurses that are involved. And once again, if you go back to page 97 in your book, it somewhat lays out that plan and what they're...how they intend to lay this out and the costs are within the plan or for the plan, not to plan. [LB311]

SENATOR WHITE: Well, is that actually laid out? Have you seen that plan or if Senator Gay would yield to a question. Have you actually seen this plan, Senator Gay? [LB311]

PRESIDENT SHEEHY: Senator Gay, would you yield? [LB311]

SENATOR GAY: Yes, I would. [LB311]

SENATOR WHITE: Thank you, Mr...yes, I would. Senator White, yes. I mean, several of us, including Senator Lathrop,... [LB311]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR GAY: ...have seen a draft summary of a plan in the discussions with the Governor. Part of that includes the out-of-home placement with Mosaic who is building some community-based homes, which longer term will be very substantial to help relocate people. We've got different assessments going on as Senator Lathrop

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discussed. And those BSDC meetings are open to the public. Anybody can come, you know, so any staff or anybody want to come. But the plan is more than just here's what it is. It will take a while. It will probably take...an estimate is probably two years because you can't get a review of BSDC again until...you don't want to rush into that. You need to make sure it gets done and that the treatments are in place, active treatment plans which are very comprehensive are in place, and that we have staff going. I think we're making some progress along there and it's...you know, we've been busy here in the Legislature but I'm hearing some good things. Senator Lathrop is... [LB311]

PRESIDENT SHEEHY: Time, Senator. [LB311]

SENATOR WHITE: Thank you. [LB311]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Harms, you're recognized. [LB311]

SENATOR HARMS: Thank you, Mr. President and colleagues. This particular issue is a tough issue. I've had the fortunate opportunity to work with Senator Lathrop in regard to addressing the issue of Beatrice. And I would tell you Senator White, we've done the best we can in regard to this budgeting process with Beatrice. And I will tell you that the deficit dollars that were being used were deficit dollars to try to meet some of the guidelines that the federal government required us to meet that we were failing in. There isn't any question that we've not had management there. That's not the Appropriations Committee's problem, not problem, it's fault. They did not have management. I said that from the very beginning as Senator Lathrop will tell you, and at the end results, we found the same thing. There was no management there. It was wrong. We didn't deal with the issues and now we're trying to straighten this up. I will tell you with the committee that Senator Lathrop is chair of, we worked extremely hard to drive that process forward. And I will tell you that with the change in the leadership there is critical to the success of Beatrice. And if you cannot change the culture of this organization, I don't care how much money you put in there, I don't care who you put in there, who takes the leadership role, Senator White, you will not change this issue. The culture is the issue. You've got to change the people. Until you get someone in that understands that, that has leadership skills, and can develop this, we will be here two years from now having the same discussion or Beatrice would be closed. We refused to allow it to be closed. There's parents and loved ones want to make sure that their loved one is taken care of in Beatrice, and that's our responsibility as a Legislature. It's easy to be critical on the floor. It's easy to point on different issues. We are doing the best we can. And I would tell you, it's not easy to work with Health and Human Services. It's not easy to get the information. You don't get all the information. We're getting there and I can guarantee you that with this committee we will continue to drive that force to make sure that it's right, to make sure that it is taken care of. But what this is all about, do we want to lose our accreditation? Do you want that embarrassment? Absolutely not. It's wrong

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and I think we have a responsibility here rather than to be picking on the issues and accusing people, we've done the best we can. And I will guarantee you that we're going to continue to do that. And we will be successful. It's important to the people who have their loved ones in Beatrice that they understand that we're committed to this. We're not going to close it. And some of this, Senator White, leads to a whole other development. We don't have enough doctors. We don't have enough psychologists. We don't have enough psychiatrists. We don't have enough nurses. We don't have enough social workers. I think they're working on that. And some of this money was being used to look at community-based programs. I have concerns about the community-based programs. I voiced that from the beginning. We will evidentially get there. But the assessment of the people and all of these things are important, and it all boils down to, you got to have the right leadership. You've got to have the right culture and we've got to change that or we will not be successful. So Senator White, I would tell you, I appreciate your thoughts and your questions. We're going to get there and I can tell you it's not easy, but I will tell you with the leadership that we have and the commitment we have on that committee, we're going to get there. So I appreciate what your doing. Thank you. Thank you, Mr. President. [LB311]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Wallman, you're recognized. [LB311]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I am a member of HHS and also District 30, which is Beatrice. Am I disappointed in what things...we spent millions of dollars for consultants, for people to watch what we're doing. And the transparency issue is tough to get ahold of, Senator White. And I would like to think that we as a government can run a healthcare agency as good as any private. That should be our job and our Health Committee is committed to that and also the LR11. We are committed to making things better. When is it going to happen? I hope very soon and I've very impressed with the interim manager we have there now. I hope she stays a long time. But money doesn't solve the issue, it's people. A former great president said, the buck stops here. We have a hard time in our government agencies to find out where the buck stops. If it stops right in here with our commission, it stops here. We can take the blame, but we're going to put pressure on some people to do the right thing. And it is tough when you're entranced in your varies fiefdoms to, I've never had to do this before, why should I do it now. But like Senator Lathrop said, it is an embarrassment if we lose our accreditation. I mean whether it be school, healthcare, hospital, as Senator Gloor knows, that's an embarrassment. It shows we're not doing anything right on certain issues what the federal government want us to do. We say, well, it's the fed's fault. The feds might have impossible rules and regulations but then it's up to us to question what they are, whether it be our leadership roles. Leadership, leadership. I'd yield the rest of my time to Senator Lathrop if he'd like. [LB311]

PRESIDENT SHEEHY: Senator Lathrop, you're yielded 2:45. [LB311]

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SENATOR LATHROP: Thank you, Senator Wallman, I appreciate the courtesy. And I appreciate the discussion because, and maybe I'll make the obvious point, that Beatrice is run by the Health and Human Services agency. That is an arm of the executive branch, so not to belabor the point, but BSDC is the Governor's institution to run. And because it...the operations reside in the executive branch, we don't get a lot of detail over in the legislative branch. The best detail we can get is the little bit of detail that we can "gen" up when we're, when they're in front of the Appropriations Committee or when we have Mr. Wyvill in front of the LR11 committee. And we try to do that. But understand, there's a limitation on how much information we can get. I want to visit a little bit about the time, or rather the idea of a plan. It was the conclusion of the BSDC committee that probably the best road map out of the quagmire that BSDC became, was the DOJ agreement. That was an agreement entered into by the Governor on behalf of the state of Nebraska after the Department of Justice found that we'd been violating people's civil rights with abuse and neglect at BSDC. That very agreement requires that we receive periodic updates. Those updates are to come to us every three months. We have a special... [LB311]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR LATHROP: ...expert observer agreed to by the state and the Department of Justice. It's a fellow named John McGee. He was to write a report every three months. And part of our frustration on this floor, mine as the chair of that committee is, Dr. McGee was supposed to write a report every three months. We should have three of those reports in the bank right now and we have one. It was written after I contacted Senator Nelson's office and asked that he contact the Attorney General's Office to get a report to tell us, how were we doing relative to that agreement. The report came probably three or four months ago and I would regard it as fluff. It did not give us the detail we needed. I told Dr. McGee that and he promised me a second report with sufficient detail a month ago. And now he's not returning my phone calls. And that's problematic because, members, if we're to measure how we are doing... [LB311]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Wallman. Thank you, Senator Lathrop. Senator Wightman, you're recognized. [LB311]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I do want to thank Senator Lathrop, Senator Harms, and many others that served on the LR11 committee, Senator Gay. They performed a valuable service. We're here today and it seemed to me like on one end there are those who maybe think we ought to punish Health and Human Services by cut their funding. At the same time maybe we're also saying, they need all the money they can get to perform at the level that the LR11 committee and other members of this body feel they should. It's really a difficult situation to determine what that level of funding can be or should be, and it's probably impossible

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for this body to micromanage the Department of Health and Human Services to the degree that many wish we could. But at any rate, I think we are in the position that we're in, kind of a quandary whether we should punish the department maybe for not carrying out what many feel should be carried out, or whether we should continue to fund them and we have safeguards in place in that the committee has made numerous suggestions I think, and some of those are being carried out. With that, I would yield the rest of my time to Senator Gay if he could use the time. Thank you, Mr. President.
[LB311]

PRESIDENT SHEEHY: Senator Gay, you're yielded 3:35. [LB311]

SENATOR GAY: Thank you, Senator Wightman. I just wanted to follow up a little bit. I appreciate Senator White to bring questions on the budget. That's what we're supposed to do getting answers because many times we don't, we don't know everything going on in different parts of even our own Legislature. So let me just say though too, I'm also on the LR11 committee and Senator Adams, just looking around the room, Senator Stuthman, Wallman, Lathrop, Harms, Cornett. I think...hopefully, I didn't miss any, but we're on that committee and right now we've been extremely busy. Senator Lathrop's been working on issues and we're attending these meetings. I think this summer, it's two year, we're going to continue to pursue things. Things are changing down in Beatrice. One thing when we talk about a budget, let's be specific when we talk about Health and Human Services. It has six divisions, Public Health, Veterans, Behavioral Health, Developmental Disabilities, we got Children and Family Services. There are many issues here. So let's be specific. We have a lot of great employees around the state working hard as we speak, trying to do the right thing. And these people down in Beatrice are trying to do the right thing. They're working hard. Claire Mahon, our interim CEO, is just a ball of fire, doing a great job. I'm excited on that. This summer what we wanted to do, and this takes time, I've been a chairman now, what three, four months, we're going to tear apart what HHS is doing. We want to know too. You need to know as members where we're spending this money. Just on developmental disabilities alone the total spending is \$236 million. We need to know where that goes. Do I know where every penny is going? No, it's a big, big agency and we're getting to the bottom of it. We need to prioritize what are those best services that we can deliver very well. How can we do it? Are we doing it effectively? But ultimately, are those patients and those residents being served, the people in Nebraska that are receiving these services, getting a good service. And that's the end question. At the end of the day, that's what we need to know. But we'd be naive to not say there's some kind of...that we need to watch our finances, of course we do, it's a huge department. This is much like education. It's very, very big and it takes...you can't just turn things around over night. I'm optimistic this summer though, we've got some interim studies going on. That would be one of them. We're going to prioritize what each division is doing. We asked them what your goals were last year and now this year we want to say, prioritize those goals, and prioritize every program you have. That's going to take a lot of work and we've got a

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great committee. [LB311]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR GAY: Thank you, Mr. President. We have a great committee who will put the time into it this summer and get back to you. Now, next year when we do that, there may be some tough decisions for you all to make, because quite honestly, you can't...how much money can you put into these programs. We need to find out. We talked about this last week when we were talking about safe haven issues. How do we spend these dollars? We're putting plenty of dollars into the program. It's how efficient are we on the use of those dollars. But with our committee, it's an excellent committee. I'm very optimistic that we can do this. This is a 49 member budget and I don't know all the answers. Senator Heidemann doesn't know every answer to what's going on in Health and Human Services. We'd be kidding if we said we did. Our best is we continue to work on it with your help and input, and we're always open for any ideas you have to try to get to the bottom of where those dollars go. So with that, I know, like I said.... [LB311]

PRESIDENT SHEEHY: Time, Senator. [LB311]

SENATOR GAY: Thank you, Mr. President. [LB311]

PRESIDENT SHEEHY: Thank you, Senator Gay. (Visitors introduced.) Continuing floor discussion on LB311, members requesting to speak are Senator Fulton, followed by Senator Gay, Senator Council, Senator Mello, Senator Pirsch, and others. Senator Fulton, you're recognized. [LB311]

SENATOR FULTON: Thank you, Mr. President and members of the body. The...there's something that, I'm going to interject a point here that hopefully we can bear in mind. As we deliberated on the Appropriations Committee there are a number of items that came before us having to do with Human Services. And lest you believe that there are only one or two line-items within the budget that have to do with Human Services, I'd like to remind you of some of the things that you'll find. And you can turn to page 31 and 32 in your, oh, the Budget Book that we put out last week. Just to get an idea of where the significant increases and reductions occurred within this budget, I'd like to remind folks that within our Human Services policy we provided increase to provider rates. We would have liked to have done more but given the financial realities that we face, we provided 1.5 percent increases within provider rates. And if indeed part of our policy is to increase the utilization of home and community-based services, that's an important aspect to bear in mind. There's also an increase within our Medicaid expenditures. We sometimes forget about that. That falls under the category of direct aid to individuals. And that finds its way into our Human Services policy also. The waiting list is something that I'm hopeful that we'll get to talk about a little bit more, but that waiting list has been

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sitting there and growing for some years. We felt it was important on the committee to take some of the state's resources and make at least a small step, and we believe in the right direction, to address the waiting list. That was an additional \$15 million dollars. I'd also like to call your attention to the fact that there will be \$18 million worth of A bills that the committee has budgeted for. These are all...not all of that will necessarily go into Human Services policy, but I suspect that with what we saw with regard to the safe haven, we're going to utilize some of those, that money set aside for A bills to deal with Human Services. So bear in mind that when we talk about our budget and how it relates to the treatment of human beings, oftentimes the most vulnerable among us, there are numerous places in the budget where the committee has provided some remedy. Now, we're touching on a very, I think, an interesting topic, and that is the separation of powers within government. The executive branch, the legislative branch, the judicial branch. I think what we hear most at the federal level is the, oh, the differences between the judicial and legislative branch. But in state government, it seems to me what my experience in the past few years, is that we talk about the differences between the legislative and executive branch. We have a responsibility for funding. It's within the executive branch that that funding is managed and actually executed. So we're going to have that debate. I'm certain we're going to have part of that debate or it's going to be drawn out somewhat today. But let's bear in mind that when we have this debate, it applies to all agencies. So for instance, now we're talking about management at BSDC and what is the appropriate role of the Legislature. I have not heard any similar questions on the waiting list, when indeed we have \$15 million that's been appropriated there. Senator Lathrop is looking at me saying, that's coming. And as well it should. We should be asking these questions. This, what we see out here on the floor, occurred in the Appropriations Committee also. It's a microcosm of what we see out here on the floor that occurs in the Appropriations Committee. So as we ask questions, as well we should, it's our responsibility in the legislative branch of the government to do so, we should bear in mind that these questions are legitimate for other areas within our Human Services policy, indeed within the entirety of our budget. So that we have a measured approach to going forward and doing what we believe... [LB311]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR FULTON: ...as a body is the right thing. I hope that is indeed our goal when we discuss this budget. If Senator Gay would like, I could yield the remainder of my time to him. [LB311]

PRESIDENT SHEEHY: Senator Gay, 50 seconds. [LB311]

SENATOR GAY: Thank you, Mr. President. I believe, I'm the speaker after as well. [LB311]

PRESIDENT SHEEHY: Yes, correct. [LB311]

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SENATOR GAY: Thank you. Thank you, Senator Fulton. Senator Fulton, I'm going to ask you a question on the matches. I was not able to attend your Appropriations hearings on Health and Human Services. I did listen in a little bit on the screen when they discussed it but I think it's important that we, as a body, understand what happened with those FMAP funds. Our Medicaid match was lowered this year and were substantial savings, I think it was estimated \$250 million over to the three years. Without that, earlier this morning in our budget briefing we were told we'd be in some tough, tough shape. So that is a nice influx into the budget. I just wanted to put that out there. Earlier I had talked about the divisions, I think I was, how could I be so remiss to... [LB311]

PRESIDENT SHEEHY: Senator, now you're on your time. [LB311]

SENATOR GAY: Thank you, Mr. President, to forget about division of Medicaid and long-term care which is, of course, handles all our payments, has, you know, the fewest employees but is involved in about everything we have. Just want to get back a little bit about what we could do this summer, I think, to help. Long-term, we had talked about our budget and the sustainability of a budget without federal money coming in. But long-term though, I do think, if we don't look at some of these programs, it's going to...it will consume our whole budget and then we're really going to be in a jam. Senator White talked about the Beatrice situation and I am a supporter of community-based programs. I think they work. We can't rely on those alone, of course, and Beatrice is an integral part of our future too. What we end up getting with the help of the LR11 committee and input, with the input from that committee and the work of that division, I think long-term we need to make sure that again those services are being delivered. Senator Fulton, would you yield to a question? [LB311]

PRESIDENT SHEEHY: Senator Fulton, would you yield? [LB311]

SENATOR FULTON: Yes. [LB311]

SENATOR GAY: Senator Fulton, I caught probably the first day of Health and Human Services, the afternoon, but can you explain our match rate, our FMAP. I understand how that works. The federal government, we lowered our contribution to Medicaid. Can you explain how that had an effect on the budget? [LB311]

SENATOR FULTON: Well, I don't have the precise numbers in front of me, but generally what we're talking about is we're utilizing federal dollars within our Medicaid match where we were using General Fund dollars previously. And the net result is that our General Fund obligation is there for that much, the corresponding amount less. [LB311]

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SENATOR GAY: Okay. Senator Fulton, you've been on Appropriations the whole time you've been here. Long-term, would you agree with me that controlling that spending, especially on our long-term care spending and others, if we don't get ahold of that, all these services will be suffering. Would you agree with that statement? [LB311]

SENATOR FULTON: I would. Another way to say this, there's a...we, in state government, operate with a finite amount of resources, via our tax policy. And if we don't have, and the word I use is control, control. If we don't have control over any particular expenditure within state government, then we run the risk of structurally usurping the entirety of the budget, which ultimately hurts all of those who are affected by the budget. So within, with regard to Medicaid, last year's budget, the number was 2.96 percent. That was what the Medicaid increase was last year. And I feel, because of the work of Legislatures before us and indeed your committee and the Legislature presently, that we have some control over those Medicaid expenditures. But certainly the FMAP dollars in this budget cycle have been very helpful. [LB311]

SENATOR GAY: Thank you, Senator Fulton. We utilized a couple of waivers this year and you all voted for those and we're continuing to work on those. I think some are on Final Reading. There are ways that we can maximize what we're doing by being a little bit smarter about how we spend these dollars and I think we're looking into those, those formulas. One thing earlier this year, I was excited to hear when Senator Harms had about, he talked about long-term planning. Of course, long-term for many of is probably five years because that's the extent we would be here. Some of the newer colleagues would have seven years. But you know, going out long-term, again, I think it's important this summer that we start prioritizing what we can fiscally sustain long-term. What's the best, what are those best programs that we do, and we need to involve the directors that are out there and say, hey, how would you do this? How can you help us? Because without that input, you know, we'd be, we're going to be struggling long-term. It is a great opportunity this summer and be engaged in that. I think part of that we're going to ask members of the Appropriations Committee to be on this with us on Health Committee. This summer we had a joint, when we had interim studies, we had Appropriation members dealing with behavioral health and there's children's behavioral health issues... [LB311]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR GAY: ...and I thought it was very productive for them to get an input. I know Senator Hansen has been on Health Committee for two years. Now, he's on Appropriations and I'm sure that's helpful to him, the background that he caught in those two years. But it is important that we make sure that the Appropriations Committee members are working with Health Committee members as we go forward in finding some common ground. Because the communication gap, what I found here in the Legislature, is sometimes very large even though we see each other on a daily basis,

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we sometimes forget to talk about some of the issues and how we can work together. My seat mate, Senator Nordquist here, is on Appropriations. But, you know, sometimes we just take it for granted that someone knows the issues going on. So I just wanted to make sure we talked about some of these issues and the opportunities coming up. If you have any interest or desire in working with the Health Committee on those, we'd appreciate it. And even today, we're going to have discussions with Senator Nordquist, Mello, and myself on healthcare reform and some opportunities that we can... [LB311]

PRESIDENT SHEEHY: Time, Senator. [LB311]

SENATOR GAY: Thank you, Mr. President. [LB311]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Council, you're recognized. [LB311]

SENATOR COUNCIL: Yes, thank you, Mr. President. I certainly appreciate the discussion that has occurred relative to Health and Human Services and the Beatrice situation. But I would like to shift focus a minute. I'm concerned about the Department of Correctional Services. And in the deficit appropriation it provides for a \$7.7 million deficit appropriation. And if I am correct in my reading of the budget document, and if Senator Heidemann would yield to a series of questions, I'd appreciate it. [LB311]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Council? [LB311]

SENATOR HEIDEMANN: Yes. [LB311]

SENATOR COUNCIL: First, Senator Heidemann, directing your attention to page 26 of the Budget Book, the General Fund overview. [LB311]

SENATOR HEIDEMANN: Page what? [LB311]

SENATOR COUNCIL: Page 26. [LB311]

SENATOR HEIDEMANN: Okay. [LB311]

SENATOR COUNCIL: And it indicates that the Correctional Services budget without deficits for '08-09 was \$148.5 million. Is that correct? [LB311]

SENATOR HEIDEMANN: Yes. [LB311]

SENATOR COUNCIL: So with the deficit appropriation, that would put the Department of Corrections over \$156 million? [LB311]

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SENATOR HEIDEMANN: Just one moment. I believe you're correct, yes. If you add the deficits in, it would be. [LB311]

SENATOR COUNCIL: Okay. So if you add the deficits in you're at about \$156,100,068. My concern is the Appropriations Committee proposal for General Fund appropriations to the Department of Correctional Services shows a General Fund reduction of \$27,550,000. Now I understand from reading page 50 of the Budget Book that of that \$27 million deficit that's shown on page 26, the intent is to meet that deficit with \$35 million in stabilization dollars? [LB311]

SENATOR HEIDEMANN: Yes. [LB311]

SENATOR COUNCIL: And so if you added \$35 million to what the committee proposes for fiscal year '09-10 we'd be at \$155,900,000. [LB311]

SENATOR HEIDEMANN: That appears to be, yes. [LB311]

SENATOR COUNCIL: Okay. So it would still be \$1 million short, \$1 million less than what their '07, excuse me, their '08-09 budget plus deficits. It's still about \$1 million difference. [LB311]

SENATOR HEIDEMANN: It would appear to be. Some of that on your deficit side is somewhat used to catch up. You're also building a base to carry forward. [LB311]

SENATOR COUNCIL: Okay, but in terms of the raw numbers, it's about a \$1 million difference. [LB311]

SENATOR HEIDEMANN: Yes, but some of the deficit money is probably, was actually used to unforeseen things that popped up. Where some of it was actually probably put in to build base so that they could carry on with the amount of money that they properly, you know, would probably need to carry on in a good fashion. [LB311]

SENATOR COUNCIL: But one of the concerns that's expressed, at least on page 97 with regard to... [LB311]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR COUNCIL: ...the Nebraska Department of Correctional Services is the staffing issue. And it's much like the staffing question and the discussion that occurred around Beatrice and that is the need to address the staffing shortages at Tecumseh and McCook. Am I reading that correctly? [LB311]

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SENATOR HEIDEMANN: Yes. I do believe that Tecumseh has corrected some of its problems as far as being able to recruit and retain staff though, from my understanding. [LB311]

SENATOR COUNCIL: Okay. Well, the reason...and I thank you, Senator Heidemann, for yielding. The reason I raise these questions is that in order for this body to provide adequate funding for Correctional Services for fiscal year '09 and '10, it will require the addition of the \$35 million in stabilization dollars. [LB311]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Council. Members requesting to speak on LB311 we have Senator Mello, followed by Senator Stuthman, Senator White, Senator Lathrop, Senator Friend, and Senator Nordquist, and others. Senator Mello, you're recognized. [LB311]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. In hearing the conversation today I kind of want to make sure we try to clear up a few concerns that I've heard up from an Appropriations Committee member perspective. Senator White is correct in the sense that it's a separate coequal branch of government. It is our responsibility to exercise the appropriate oversight over all agencies, whether they're code agencies or noncode agencies. Whether they're under the direction of the Governor or not under the direction of the Governor. That is the responsibility of the legislative branch. And in regards to the conversations of the Beatrice State Developmental Center, the committee weighed this issue greatly over the last few months. Senator Heidemann gave us ample time, for days to talk about what we felt as the committee was appropriate to exercise our legislative oversight authority. And Senator Lathrop came in as well as members from the administration, members from Health and Human Services to provide a perspective and an update of what's being done at Beatrice, and to sometimes at the consternation of committee members, we were not happy with what was going on at Beatrice. With Senator Harms serving on the Special Investigative Committee, he was not happy with some of the answers that we were getting from Health and Human Services. But to ensure, to find compromise within the committee to bring out a responsible plan to the floor, I want to direct you to the committee amendment on LB315 under Program 421, the Beatrice State Developmental Center, where we included intent language for the body to exercise authority over the BSDC Action Plan, because there is a grave amount of concern in regards to the leadership that's being provided to deal with this issue. So I direct you to line 20 on page 63 of the amendment, "It's the intent of the Legislature that the Department of Health and Human Services shall provide a quarterly report to the Developmental Disability Special Investigative Committee, the Appropriations Committee, and to Health and Human Services Committee of the Legislature regarding the usage of \$32 million of General Funds appropriated to address the Department of Justice Compliance Agreement and the Beatrice State Developmental Center Action Plan." There is, continue on pages that continue further along that lay out what actually

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HHS will be required to give to the Legislature, which I'll let you read on your own. But I do not want to minimize the point that Senator White has brought up, but also that the Appropriations Committee understands and respects and shares that viewpoint, which is we appropriated a deficit amount of spending to try to rectify the situations at Beatrice. But by also appropriating that money, we also included an extra level of oversight so that the Legislature in two year...over the next two years can see what is being done with that money. I think Senator Heidemann tried to express that in some of Senator White's questioning and it's more of just a clarification, because I firmly believe throughout the appropriations process, I believe my fellow colleagues would agree, that oversight, accountability, and transparency are principles and values that I held in regards to helping devise our preliminary budget. And I believe Senator Heidemann and the rest of the committee agreed on what to do with Beatrice is exactly that, to provide an additional level of oversight, to provide a quarterly report from HHS to this body and to the three committees, so that if there are problems as we allocated \$32 million additional dollars to help rectify the situation at Beatrice... [LB311 LB315]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR MELLO: ...if we identify problems, that it's our responsibility to help try to solve them as well, and to hold the executive branch, HHS, and the leadership at Beatrice accountable for what they're doing, not only this biennium but years to come. So with that I'd like to yield any remainder of time to Senator Heidemann, if he would so wish. [LB311]

PRESIDENT SHEEHY: Senator Heidemann, you're yielded 35 seconds. Senator Heidemann waives. Senator Stuthman, you're recognized. [LB311]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I have a lot of interest in the individuals that are at Beatrice and I think, you know, things have gone not the way we wanted to in the last several years and we're trying to correct some of those issues. So I'm very supportive of, you know, of the fact that they're going to need some additional money. But I'm very much concerned, you know, that I think we need to make sure that the money that we're spending there is going to the right place. I, you know, I am an individual that, you know, wants to help people that can't help themselves. I think that's very important because these individuals that are, that are, you know, the individuals that are at the Beatrice Home, you know, that is their home. One of the things we got to make sure is so that we can get recertified and can get, you know, the federal money to help subsidize that facility down there. And I think that's very important. But I want to draw your attention to another issue in the Budget Book at page 97 on the BSDC Action Plan. The committee proposal includes \$7 million deficit appropriations for Beatrice State Home. Now you go on down a little bit further, and keep in mind that was \$7 million. Then the Department of Correctional Services, the NDCS funding, the committee, deficit appropriation includes \$7.7 million for a variety of

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the Department of Correctional Services including inmate medical and food costs. Now I think there's something major wrong with the fact we're concerned about spending \$7 million, you know, to help the people that can't help themselves and we also have a deficit appropriation of \$7.7 million of individuals that can help themselves. These individuals have not been trained. They've not been responsible. These individuals should not be in these correctional facilities. We should not have to be spending our money on them. Where has the tongue broke? The fact is, I think there should be, you know, additional responsibilities of parents, grandparents, guardians, and responsibility of these people that are sent to these correctional facilities. Because these individuals can help themselves. But I am very concerned of the fact that, you know, we are addressing an issue that is thinking about funding of the fact people that can't help themselves and we, in the body here, we can all help ourselves. Those individuals, you know, cannot help themselves and we got to be very considerate of that. And I want to make sure that Beatrice stays open and we get recertified and we need to put that as one of our high priorities. I think that is very important. And I would like to yield the balance of my time to Senator Heidemann. [LB311]

PRESIDENT SHEEHY: Senator Heidemann, you're yielded 1:40. [LB311]

SENATOR HEIDEMANN: Thank you, Mr. President. Thank you, Senator Stuthman. I think we've had some good discussion already this morning on LB311. Sometimes various topics come up when you probably wouldn't quite expect them, but I think the budget bills give people an opportunity to bring things up, gives them an opportunity to talk about things that matter to them. I was talking to Senator Wightman when people were on the mike and we determined that we fund things in Appropriations, but we're probably not professionals at it exactly. [LB311]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR HEIDEMANN: Anything, we deal with so many different agencies and subject matters that we try to get familiar as much as possible with everything that we're spending money on, but we can't get down to the detail that Senator Gay can in Health and Human Services, and that Senator Fischer can in Transportation and as you go to different committees, Senator Adams with Department of Education. We tend to rely on those committees to do the heavy lifting when it comes to their subject matters. And we do try to be aware of where our money goes, especially when there are problems, and try to do any corrective measures that might be and to have people accountable for the money that we do spend. And there are certain things that we put in the budget bill with intent language that gives certain groups or agencies directive to report back to us. And we try to do things like that. Not an easy process. Thank you. [LB311]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Thank you, Senator Heidemann. Senator White, you're recognized. [LB311]

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SENATOR WHITE: Thank you, Mr. President. I'd like to, first of all, lay a little groundwork here. We are not at risk of losing our certification, Senator Harms; we've lost it. It's gone. We are on an appeal. Second, the only power we have as a Legislature is the power of the purse strings. We cannot appoint new leadership at Beatrice. We cannot enforce laws. We cannot interpret laws. We cannot order police to go arrest someone. We cannot issue injunctions. The only thing we can do to protect the people at Beatrice is how we spend money. That's it, folks. Push comes to shove, the Legislature only has the power of the purse in these situations. So there is nothing personal on any senator or any Appropriations Committee argument when we make these questions. But understand, that is the core power of this institution and that it is not only our right as various senators; it's our flat-out obligation to carefully look at the appropriations bill. It is not a reflection on the work of the committee, nor is it not collegial nor is it rude to question things in the budget. What is completely wrong is to insinuate that honest, legitimate questions on how we are spending money in agencies that have shown to be, at best, seriously dysfunctional, is appropriate. But to try to cut back debate, try to throttle back questions in the guise that it's somehow a personal assault on the members of the committee is profoundly wrong. Now let's talk about how real this problem is. If for example, folks, we were talking about not getting parking meters cleaned out at the right time, a debate like this would have no point. But for those that weren't here when the Department of Justice report came out--I told you about the person who was dropped and spent a week with broken legs and wasn't taken to the hospital--there was another person there, a staff member--because we could not hire good people or keep them--became sexually obsessed with her, shaved her pubic area, and his supervisor knew that for a week and never reported it. Okay, silence and not asking questions when we were talking about something so profoundly wrong, is immoral--and I've been warned not to talk about morality. I'm sorry--that's immoral. And you cannot say, oh, well, it's a lack of leadership. You cannot wash your hands of that like Pontius Pilate. You cannot. Nor is it wrong to seriously and politely ask, how far did we look into it? Are we insisting that that particular program not be funded but another program be funded? To ask, how far along are we with the Department of Justice to complying with its order? And to ask, what money is being spent on consultants and what money is actually being spent on improving the lives of the patients in Beatrice? None of those questions have been answered, folks, none of them, not one. And we are not talking idle things. Think about what those human beings have gone through at that institution, and know the only thing you can do about it is how you spend money. Now I don't care if it's popular or not, but I will not turn away from it and I don't think you will either. [LB311]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR WHITE: And I think appeals to being polite to turn away from it are badly made. Now, what I do ask and I think the public insists, is that, as their legislators, we

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hold accountable those who are accountable. We reward those who are doing their job. We withhold funds from those who are wasting it. And that's what this debate is about. It is not about our colleagues. It is not about their hard work. It is not about anything other than delivering services to the public in a responsible manner and exercising our one true power--the power of the purse. Thank you, Mr. President. [LB311]

PRESIDENT SHEEHY: Thank you, Senator White. Senator White, that was your third time. Senator Lathrop, you're recognized. [LB311]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I do want to acknowledge the work of Senator Harms on our committee. I also want to start maybe by suggesting something and that is this discussion isn't intended to be a criticism of the Appropriations Committee. They were good enough to work diligently on issues relating to BSDC, relating to provider rates, and relating to the waiting list. They were kind enough to have me before that committee to talk to them about those issues, and I appreciated that opportunity. And frankly, I think the Appropriations Committee has been responsive to the concerns expressed by and the needs of...the money needs that we have to get us from where we're at to where we need to go. The difficulty...and I to some extent share Senator White's concern and I'll give you an example. This is something that we discovered two years ago when we were here. Senator Rogert said, in an amendment, that a certain amount of money--I think it was about \$1.5 million--would be sent to Health and Human Services and to be used specifically for recruitment and retention over at BSDC. And you'll remember from the report of that committee, LR283 report, that much of that money...much of that money was actually spent on temporary help. So do we have reason to be concerned? Yes, we do. And perhaps that reason is also even more acute because that very same committee indicated they didn't have confidence in the director, and the director is still running the show. And when the committee meets and we have questions, I've got to tell you I have concerns about whether or not he truly understands the issues or he's being evasive. And that's somebody that understands the issues when I'm asking the questions. We do deserve answers to these questions. I truly think the Appropriations Committee has done as well as they can and they got in a bad spot. Health came down to...Mr. Wyvill came down and said, I need \$32 million to carry out this plan. And we said, what's the plan? And I think you'll hear from some members of the committee, perhaps, on how that all went down. But to be honest with you...to be honest with you, even after all that's happened, a year after decertification, a year after the DOJ agreement or the problems that were identified in the DOJ report, I still don't have a sense that they have a handle on it, to be honest with you. Is that a concern? Yeah, it is. And so what's the spot that left the Appropriations Committee in, because I appreciate the spot they were left in. They got what I would regard as not enough detail or not enough detail to suggest that somebody has a clear, cogent plan for BSDC. So they're choices were to not fund it, in which case it's now the Legislature's fault for not taking care and providing for the means necessary to improve the situation at BSDC, or to fund it and hope that it's taken

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care of. And they had to do the latter. I don't blame them for it and I am pleased...I am pleased that they have required quarterly reports. They probably shouldn't have had to require quarterly reports. They should have been provided with the detail, a road map, a plan, something that showed that the director understood how to get from the quagmire to better days. [LB311]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR LATHROP: And they didn't get that. And they couldn't not appropriate the funds and be responsible for not having the resources to fix the problem. That's the spot they were in and I recognize it. And about all they can do is request quarterly reports afterwards. That's an unusual step, I would suspect. I appreciate that the Appropriations Committee did that, but recognize when we saw that money we appropriated specifically for recruitment and retention was spent on temporary help, just ignored the limitations that Senator Rogert put on the use of those funds and the purpose for which they were appropriated, we have every reason in the world to be concerned. And I agree with Senator White, this is the time to talk about it, because the only control we have over this situation, no matter what I do and the committee does on BSDC, the only control we have over the situation is through the appropriations process. So I appreciate the discussion and... [LB311]

PRESIDENT SHEEHY: Time, Senator. [LB311]

SENATOR LATHROP: Thank you. [LB311]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Friend, you're recognized. [LB311]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Obviously we haven't even gotten to the main-line budget bill yet, and I didn't expect that we would get there this morning anyway, but this discussion has been quite...I wouldn't call it enlightening. I'd call it rather enjoyable. I've heard on the floor that we need to ask questions as a legislative body; that's our job. Oversight, that's our job. I've heard that buzzword. Purse strings: I've heard that word. I've heard a lot of fun things, a lot of fun terms. Senator White is right about one thing: We control the purse strings. There's a thought process that...in a legislative body, and it's natural: it's decisionmaking by committee. Let's create a task force. Let's go figure out what's wrong at BSDC. They won't. You can have all task forces you want; it ain't going to do any good. It's a code agency. The Governor makes those decisions as to how long that's going to operate. The only way, which is what Senator White is right about, to control that is to go into Appropriations or Revenue, either/or, and say, we will appropriate no more money for BSDC. Further, we can make the argument that we will appropriate no more money because BSDC is a function of Health and Human Services. It would be a good idea if

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we didn't give Health and Human Services any more money either. They're dysfunctional. They're messed up. If this body felt it was justified, it could put the clamps down. But the most important thing, I think, out here for a body like this...forget about the oversight and forget about all these buzzwords that we've been tossing around this morning. It's consistency. Let me address that for a second. Last week we tossed a bunch of money at Health and Human Services. We already have determined that they don't do a very good job at BSDC, right?--at least as a body, as a group that can think creatively and critically. We've made the decision they don't do a very good job down in Beatrice, but let's go ahead and take \$16 million more and let's dump it down another gopher hole. Two new programs and two expanded programs, that's what I saw last week. The interesting part about it is one person voted against it. One. I heard general conversation this morning about how bad Health and Human Services is, how the Governor is screwing things up in that area. And guess what? We just said, yeah, here's \$16 million more, Gov; go with it; run with it. By the way, we don't need to know how well SCHIP works; we don't really need to know or what the requirements are going to be by the Health and Human Services Department yet, because we haven't put that in statute in regard to providing services relating to children's behavioral health and adoption guardianship for families. This is nuts. We can spend all the time we want, either bashing code agencies, bashing the Governor, bashing each other. That vote last week was 41 to 1. Everybody in this body--and some haven't stood up and bashed the agency today--everyone in this body voted to move \$16 million in new or expanded Health and Human Services spending to the Governor's desk for his signature. (Laugh) It's humorous. We haven't even got to the fun yet, the main-line budget bill. You want to have some fun? Let's have some fun on that. [LB311]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR FRIEND: But please, spare me the political discussions out here about how we're being fiscally responsible. A friend of mine told me a long time ago, he said...and I was new. I looked...I was shinier than Colby Coash--brand new. He said, if you don't take anything out of here, take this: Be consistent. You tell somebody you're going to do something, you do it. You talk smack about fiscal responsibility, you go do it. You make those votes. And then you're done and then you live with them. And if you can't get elected to any other position the rest of your life, then you earned it. It's yours. Look in the mirror and deal with it. Thank you, Mr. President. [LB311]

PRESIDENT SHEEHY: Thank you, Senator Friend. Members requesting to speak on LB311, we have Senator Nordquist, followed by Senator Haar, Senator Dubas, Senator Nantkes, Senator Carlson, and others. Senator Nordquist, you're recognized. [LB311]

SENATOR NORDQUIST: Thank you, Mr. President and members. I fully understand Senator Friend's frustration. This has been...you know, many of you who have been here for awhile have been fighting this fight for several years. This year it's been

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frustrating for me. Back in March, March 17, a week before the hearing on BSDC-related issues, I sent a letter to Director Wyvill saying, come to the hearing with a plan. There wasn't one. There wasn't a plan. No details. Senator Mello, at the hearing, said, get us a plan. There wasn't a plan. April 2, Senator Lathrop, on his task force, said, get us a plan within a week. Still nothing. Finally it took us, on the floor of the Legislature, on April 7, to stand up and say this is going to stop; we are going get a plan. Believe it or not, by about 4 o'clock that afternoon, there was a little bit of a plan coming together. There was a three-page outline with some numbers, saying this is where the money is going to go. Within a couple days after that we got a little bit more detail. For those of you that are interested in this bill, the deficit appropriation, the \$7 million, I can give you a little bit of the detail on that. Of the \$7 million, \$450,000 is going to go to the interim management team, including the interim CEO; \$840,000 is going to go to clinical assessment to determine the appropriate needs and proper placement of the residents of BSDC and those that have been moved; about a quarter of a million dollars, \$250,000, is going to go to bolster the medical services on a temporary basis at BSDC; and then finally the big chunk of about \$5.5 million is going to go to cover the transition costs. And this is where we came down. Senator Friend, we had a lot of debate, a lot of discussion, and there was a lot of frustration on the committee, because when we got to the point of having to make a decision on this, it was either fund it without all the answers--and I typically don't like to do that. I did it very reluctantly, voted to fund this without all the answers before me. Or to put the most vulnerable Nebraskans at risk by not funding it. And that, I don't think anyone on the committee wanted to go down that path. But of this \$550 million, I'm still concerned. We couldn't get...they wouldn't provide us information on per diem costs at the hospital. This \$550 million is for the...mainly, for the people that have been transitioned out, the medically fragile. We haven't gotten the answers on that. And it was a tough decision by the committee, but where we were at, timewise, putting out budget together, it was the direction we had to go. And like I said, I'm reluctant to make decisions like that without having the information. But we're not willing to put the most vulnerable Nebraskans at risk. And secondly, you know, I do support this, and I think the intent language is a critical component of it to give us some oversight, to make sure we're getting some answers over the next two years from the administration. So with that, I will end, Mr. President. Thank you. [LB311]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. Senator Haar, you're recognized. [LB311]

SENATOR HAAR: Mr. President and members of the body, for me as a new person this discussion is absolutely necessary this morning, and I don't look at trying to punish anybody or any of that, but I feel a great responsibility, as my constituents feel of me, to find out where we are spending our money. And so I would like to yield the rest of my time to Senator White. [LB311]

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PRESIDENT SHEEHY: Senator White, you're yielded 4 minutes 30 seconds. [LB311]

SENATOR WHITE: Thank you, Mr. President. I'd like to thank Senator Nordquist for that. I mean, it was as close to any kind of fundamental statements, about where money is going, that we've received. When the Governor, in literally the middle of the night, shut down Beatrice hospital and moved people to hospitals across the state, the only information we were given is he negotiated the Blue Cross Blue Shield rate. We, at least I have no clue how much money we have actually spent on hospital care for patients who had been taken care of at Beatrice. I also have no clue about what it would have cost to bring the Beatrice hospital up to par and whether or not there would have been a savings. I do know that a number of families have contacted my office, saying that it was horrifying for the inmates, the patients of Beatrice to be moved in the manner in which they were moved. A number of those patients have now died. They have died in hospitals other than Beatrice. They've died away from their homes, and we're not really clear why they died. Understand that the Appropriations Committee cannot do any more than what Senator Nordquist stated, and he states that we don't want to put the vulnerable in the state at risk by not funding it, and I do appreciate that. But the ugly reality is they are deeply at risk even when we are funding it. If you read the Department of Justice reports, they documented hundreds of cases of people being dropped and injured. They documented conditions so poor that fundamental constitutional rights of the patients were violated. They had tried for years to get this administration to respond to their concerns--so we would not lose our certification, and by the way, the \$25 million of federal funding that it brings along with it on an annual basis--to no avail, to no avail at all. Now there is a real expense to not looking at the underlying conditions of Beatrice, and it's clear that Health and Human Services in this administration cannot, will not, and have chosen not to really look at that. Or if they have looked at it, they refuse to tell our representatives on the Appropriations Committee, who asked the right questions. And that is all they can do, what they have done. Well, let's look at the cost. Am I...I mean, forget the human costs for a minute, okay. And oh, by the way, since the Department of Justice report came out, we had a lady raped because of a man who was known to be sexually aggressive towards her, was allowed to be near her and alone with her after administrative officials at BSDC bought him pornography. Okay, this is not a small deal, folks. This is not somebody just making waves. Those are human beings--real human beings that deserve at least a careful consideration. And what is the cost to us as a state,... [LB311]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR WHITE: ...as a taxpayer, when we don't give them that consideration? Well, look in your budget. One of your deficits that you're looking at is the cost indemnification claims, Hirsh v. Lecuona settlement--that's a different one, but there are other indemnification claims relating out of Beatrice. Senator Lathrop can tell you, what was the settlement? Six thousand dollars? Six hundred thousand dollars for a wrongful

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death. And I'm sure that will be in the budget somewhere. There's a real financial cost. Twenty-five million dollars from the federal government, gone. Six hundred thousand dollars for a person who died a painful death unnecessarily. Cost of putting people in private hospitals and closing the state-run hospital. It is our responsibility to ask these questions, and I appreciate what Senator Heidemann, Senator Nordquist, Senator Harms, and others on the committee have done to ask those questions. But it is no answer to say... [LB311]

PRESIDENT SHEEHY: Time, Senator. [LB311]

SENATOR WHITE: Thank you, Mr. President. [LB311]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Dubas, you're recognized. [LB311]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor, members of the body. If we really wanted to get people's attention, we would IPP every one of these budget bills. That would bring every agency to their knees, or to the table, at least, for discussion. And if it were only department heads that we were talking about, in my mind that wouldn't be a problem, but we're talking about bills that impact people, very vulnerable people, people from all walks of life. And that's why we have the budget. That's why we have the budget debate, because we have to talk about these things. Our leverage with agencies is this debate; it's public sentiment; it's our dogged determination and demand for accurate information. We're requesting a deficit appropriation for recruitment and retention of employees, and it's very much needed and I support what they're trying to do. But I think the problem that is being highlighted at Beatrice with the work force is just one small example of a much larger problem dealing with trained professionals for behavioral health issues. I brought this topic up last week when we discussed LB603. I'm going to bring it up again when we talk about provisionally licensed mental health providers. These are people who provide an incredible service, especially for rural Nebraska, and we are basically shutting them down in their ability to serve our state. I've had several conversations with Director Chaumont. I've sent her a letter outlining my concerns. But when you don't reimburse provisionally licensed professionals, we are providing a major disincentive for those individuals to stay in Nebraska, and specifically in rural Nebraska. So we're struggling to keep an adequate work force in Beatrice by the types of rules and regulations that Magellan is dictating to us. We're doing that across the state. If we really want to address lack of services, we must begin to address how many workers are available statewide to provide services. Here's an example. We have two doctoral level practitioners, both graduate after completion of their internships with the Nebraska Internship Consortium in 2008. One is doing a postdoctoral fellowship at a large urban agency that fits the new guidelines of network participation. The second, a postdoctoral fellow at Munroe-Meyer Institute. The second can't get reimbursed, despite working for a state agency and having credentials and experience identical to the

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individual in the other setting. This professional, who cannot be reimbursed per the guidelines, is from a small Nebraska community and desired to establish a practice near her hometown, but is now located in Omaha because she needed to pay for her services. The individual I referenced above, wanted to work with children, adolescents, and families in a rural primary healthcare setting, and had five years of graduate training. So even with that level of education and experience, she could still not be reimbursed. By contrast, if a provisionally licensed mental health practitioner, with half the training and experience, were working in the facility, they would be reimbursed. Lumping together practitioners with no regard to their specific training and experience does not provide the best care for clients. Accessibility and equitable access to those services are being continually limited in rural areas due to this policy. [LB311 LB603]

PRESIDENT SHEEHY: One minute. [LB311]

SENATOR DUBAS: We've had several objective studies that contradict Magellan's network analysis on availability of mental health providers in this state. We're seeing 53 percent of therapists report that they're limiting the number of Medicaid or Magellan clients they see; 22 percent said they've decided to informally discontinue accepting new clients. We have a big, big problem here with adequately providing services for behavioral health issues. Beatrice is just one small indication of an overarching problem that we need to continue to talk about on the floor. We need to continue to ask questions. We need to continue to demand accountability. We need to continue to let these department heads know that we are not going to go away; that we want...we shouldn't be in an adversarial relationship. We should be working together because at the end of the day we're serving the citizens of Nebraska, and that's what we all should be focusing on. Thank you. [LB311]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Mr. Clerk, you have items for the record. [LB311]

CLERK: I do, Mr. President. New resolution, LR108, by Senator Wightman. That will be laid over. Amendments: Senator Gloor to LB288; Senator Giese to B315; Senator Pirsch to LB63. A new A bill: Senator Gay offers LB288A. (Read LB288A by title for the first time.) Judiciary, chaired by Senator Ashford, reports LB216 to General File and the following bills to General File with amendments: LB147, LB155, LB199. Name adds: Senator Giese would like to his name to LR106. Reminder: The Education Committee will meet at 1:05 in Room 1126. (Legislative Journal pages 1293-1303.) [LR108 LB288 LB315 LB63 LB288A LB216 LB147 LB155 LB199 LR106]

And a priority motion. Senator Utter would move to recess until 1:30. []

PRESIDENT SHEEHY: You have heard the motion to recess until 1:30. All those in favor say aye. Opposed, nay. We are in recess. []

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RECESS []

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record. []

CLERK: I have a quorum present, Mr. President. []

SENATOR LANGEMEIER: Thank you. Mr. Clerk, do you have any items for the record? []

CLERK: Just one, Mr. President. Urban Affairs will have a meeting at 2:30 in Room 2022; Urban Affairs at 2:30 at 2022. That's all that I have. []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item on this afternoon's agenda. We left floor debate on LB311 and the committee amendment there...the committee amendment was adopted. We left...we are on the committee amendment. The floor is open for discussion. We have...those wishing to speak, we have Senators Nantkes, Carlson, Council, Fulton, Wallman, and others. Senator Nantkes, you are recognized to...Senator Nantkes is not here. Senator Carlson, you are recognized. Senator Carlson, you are recognized. (AM886, Legislative Journal page 1252.) [LB311]

SENATOR CARLSON: Mr. President and members of the Legislature, as we resume our discussion on LB311, I look back at some of the things that have been said this morning. I think Senator Friend brought up some very, very good points, and he talks about only one voted against a bill and it reminded me of some things that I had said earlier so I'm going to pursue that a little bit. Senator White talked about a deplorable performance of leadership at BSDC and that's one aspect, one opinion, and that we have parents filing suit because they don't want their loved one moved from BSDC. So what does that mean? It's not all one-sided. Senator Dubas brought up that we could IPP all HHS bills. As she said that, I thought to myself, boy, that will bring action and it could even be tempting. But that punishes the innocent as well as anybody that might be considered to be guilty. But it reminds me of what I said during our Special Session in December. I recall, very specifically, Senator Lathrop making a statement that there's room for substantial increase in services provided by HHS with improved efficiency without additional dollars. And he wasn't saying that he didn't want additional dollars spent, but wanted them spent efficiently. And in the Special Session I testified on the floor that during our session now I would not vote for additional dollars spent through HHS unless the veteran members of the HHS Committee would state that there's

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progress being made in efficiency in operation of HHS. That was December; this is May. And that's not a lot of time but I'm going to follow through with what I said I would do. I'd like to address a question to Senator Lathrop if he would yield. [LB311]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB311]

SENATOR LATHROP: Yes, I will. [LB311]

SENATOR CARLSON: And Senator Lathrop, I know that you're not on the HHS Committee but you've been very active in the committee work that has gone on concerning Beatrice. Do you believe that there's been progress made in efficiency in HHS since December, or do you think that there are plans in the works that can allow this to happen or will allow this to happen? [LB311]

SENATOR LATHROP: Senator Carlson, thank you for the question and I appreciate the opportunity to respond to it. I would be in a poor position to judge Health and Human Services as a whole. To the extent I've had involvement in the developmental disabilities piece of it, I don't think any of the money that we're spending is done to increase efficiencies. I think we are putting out fires. And the money that you'll see us spend will be on things that were intended to try to...well, it's the price we're paying for, letting the place get to where it got: things like losing \$50 million over the next two years in federal funding. There's nothing about that \$50 million that we'll appropriate before we're done with this process that will improve efficiencies. Nothing. The \$32 million that they asked for, that doesn't improve efficiencies. It just puts in place the people who should have been there in the first instance. So I'm afraid to tell you and sorry to tell you that the money we're going to spend on DD issues are not going to improve efficiencies. It's just the price we're paying for letting them get to where they were a year ago. [LB311]

SENATOR CARLSON: Okay, thank you, Senator Lathrop. And I'm putting you down on my sheet as a no. Senator Pankonin, I would like to address a question to him. [LB311]

SENATOR LANGEMEIER: Senator Pankonin, would you yield? [LB311]

SENATOR PANKONIN: Yes, I would. [LB311]

SENATOR LANGEMEIER: One minute. [LB311]

SENATOR CARLSON: Senator Pankonin, you heard my question to Senator Lathrop, didn't you? [LB311]

SENATOR PANKONIN: Yes, I did. [LB311]

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SENATOR CARLSON: Okay. What would your answer be? [LB311]

SENATOR PANKONIN: To make a simple yes/no answer is very difficult, Senator Carlson. Could I have a couple of...a little bit of time? [LB311]

SENATOR CARLSON: Absolutely. [LB311]

SENATOR PANKONIN: This agency works with the most difficult of human problems. I want to mention a couple. Obviously we've talked about BSDC and developmental disability, mental health, behavioral health, which could include gambling and substance abuse, addictions, foster children, safe haven. So I'm not making excuses. It's not...these are not easy situations. It's difficult to measure efficiency and effectiveness. I think the goal is improvement in all areas without unlimited funds available. And where does the pressure come for improvement? I think it comes from the Legislature, from the legal system, from the media, and it's actually political as well. [LB311]

SENATOR LANGEMEIER: Time. [LB311]

SENATOR CARLSON: Thank you. [LB311]

SENATOR LANGEMEIER: Thank you, Senator Pankonin and Senator Carlson. Those wishing to speak on LB311, the bill itself, we have Senators Council, Fulton, Wallman, Friend, Lathrop, and others. Senator Council, you're recognized. [LB311]

SENATOR COUNCIL: Yes, thank you again, Mr. President. I just want to follow up on some of the questions I asked during this morning's session about the Department of Correctional Services and trying to place it in context. I know, as my colleagues are aware, that the Correctional Services is currently over 140 percent of its capacity. And while I have great confidence in the director's opinion that he can handle that situation and that all is well, we must consider it in the context of legislation that is currently either on Select File or Final Reading that provides for enhanced penalties, new felony offenses, all of which are going to add to the cost of correctional services. And I'm particularly troubled by it, and the reason I raise it now rather than at the portion where we discuss the appropriations part of the budget, I'm concerned about it because we are talking about a \$7.7 million deficit for fiscal year '08 and '09 for the Department of Correctional Services. And if you look at some of the areas that are set forth in the budget document, we talk about inmate medical costs, inmate food and other per diem costs, inmate transportation costs, and electronic monitoring of lifetime sex offenders. And indeed, in one of the pieces of legislation that we've advanced, we've altered the classification of sex offenders. We've increased the offenses for sex offenders and we have increased the length of sentencing for sex offenders, which could, I believe, have an impact on the cost of electronic monitoring of lifetime sex offenders, as well as inmate medical costs, inmate food and other per diem costs. And if these enrollments in

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our--and enrollment is probably not the best term to use--but if our inmate population continues to increase at this rate, one of the concerns is that the only options available is for the Parole Board to begin to release individuals sooner than you would otherwise like to see them released, which relates to an issue of programming. And one of the reasons that the department experienced a deficit for '08-09 was to try to provide additional programming and services for those inmates who are close to being released and want to have the proper program and services to enable them to reenter our respective communities. And I'm particularly concerned that with regard to the 2009-10 budget proposal, we're looking at \$120 million from the General Funds with the balance being made up with stimulus dollars. And in 2010-11 we're looking at basically restoring the current year's funding level, but again making up some of that difference with stimulus dollars. I think we need to be very conscious of the fact that if prison population continues to grow at the rate that it has been growing, that we're going to be looking at substantial deficits in the Department of Correctional Services' budget, I think as early as 2010-11, because of the increased penalties in LB63 and others, the increasing the length of the sentences. We have created in various bills new felony offenses that will result in incarceration. I don't know about the rest of you but I get a number, a significant number of letters a week... [LB311 LB63]

SENATOR LANGEMEIER: One minute. [LB311]

SENATOR COUNCIL: ...from individuals in either Tecumseh or the Lincoln Correctional Center, and the programming issue is a very difficult issue that needs to be addressed. What is happening are the people who we're giving these longer sentence to, they're the last people to be eligible for programing, because we're trying to get those who are getting ready to get out into society, get them the programming first, and the people who we are giving these inordinately long sentences to are just sitting there and are not eligible for programming until they get closer to their release dates. So I just think we need to be conscious of the fact that at the present levels of the budget, we may be creating additional serious and deep deficits for the Department of Corrections. [LB311]

SENATOR LANGEMEIER: Time. Thank you, Senator Council. (Visitors introduced.) Returning to floor discussion on LB311, those wishing to speak, we have Senators Fulton, Wallman, Friend, Lathrop, Gay, and others. Senator Fulton, you're recognized. [LB311]

SENATOR FULTON: Mr. President, I would like to yield my time to Senator Coash. [LB311]

SENATOR LANGEMEIER: Senator Coash, you're recognized. [LB311]

SENATOR COASH: Thank you, Mr. President and members of the body. Thank you, Senator Fulton, for the time. Members, there's a few things I feel incumbent upon me to

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share with you as we discuss BSDC. It's an area I have a little bit of internal expertise on. There's a tendency by this body to think that the problems we have with BSDC happened last year, when, in fact, the problems of BSDC landed on our desk last year but they started years ago. They started in the '90s. BSDC used to be viewed around the country as the preferred place for families who had loved ones with disabilities. Somewhere along the way we lost our focus and here we are today. In a lot of ways it was kind of an out of sight, out of mind. So now we have a bill in front of us that is, in my view, somewhat of a band-aid. It puts a band-aid on it. It stops the bleeding. But the disease, which is the culture, is still there. Senator Harms was right. Unless we change the underlying culture we will be back here in two years. I will be here in two years and I'm afraid of what we might be facing in two years. Senator White and others have talked about some of the problems that came out of the DOJ report, the LR283 report. I want to talk a little bit about the people who work there. The people who work there at BSDC are good people. They're doing what they thought was right. They were doing what they thought was in the best interests of the people that they were supporting and their supervisors saw them do it. Their supervisors consented to their behavior. So we must demand management and we must demand leadership change. There's a couple of things going on there, colleagues. At BSDC there are fixed costs and there are variable costs. The fixed costs are the ones we can't do anything about. They're the costs to operate the buildings; they're the costs to operate the labor. And those don't change. BSDC, at one time, housed 2,000 people with developmental disabilities. The fixed costs are based on housing and supporting over 2,000 people. We're now down around 200. Those fixed costs aren't going to change. Then you have variable costs. The variable costs are tied to the amount of people...the number of people who are being supported. As the number of people who are being supported decrease and the fixed costs goes up, the cost per person that we are responsible for supporting is going to continue to go up. And I am concerned that in two years we will have numbers in front of us that show us that the cost per person to support someone is so high that none of us will have a choice but to say this is unreasonable; we can no longer support BSDC. So I want members to think about that. We've been doing a lot of hiring. We've hired a lot of doctors; we've hired a lot of neurologists. Just a couple of things to think about in regard to that. Many of the folks that we're hiring were needed by the people who are now no longer living there but we're hiring them because we need to hire them in order to satisfy the Department of Justice. So there's another band-aid. [LB311]

SENATOR LANGEMEIER: One minute. [LB311]

SENATOR COASH: Without the answers and a plan, in two years we'll be sitting here and we're saying...we will have had a request put to us for more money. I am interested in sustainable change. We must make sure that the money that we appropriate today and in the future goes toward sustainable change at BSDC. I'm going to push the green light today. I'm going to encourage my colleagues to do the same. However, in two years, we have to demand some sustainable change. Thank you, Mr. President.

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[LB311]

SENATOR LANGEMEIER: Thank you, Senator Coash and Senator Fulton. Senator Wallman, you are recognized. [LB311]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I too want to praise the employees who work there. They work there under tremendous scrutiny from us, from the media, from CMS, the Department of Justice. Lots of good people work there. And we should have to support them and we have to make sure the money we spend is spent on training, personnel, professional people. That is where we have to make sure we do the right thing. And I am a member of that district, a proud member of that district, and we should care for those who can't care for themselves. That's a state responsibility. That's a government responsibility. As a nation we should be able to do this. And I would yield the rest of my time to Senator Nantkes. [LB311]

SENATOR LANGEMEIER: Senator Nantkes, 4 minutes. [LB311]

SENATOR NANTKES: Thank you, Senator Wallman. Thank you, Mr. President. Colleagues, I missed an earlier chance to address you as I was off the floor attending to another matter. But I'm glad that my time came now actually to talk about some of the issues surrounding the historical funding in regards to developmental disabilities and in regards to Beatrice specifically. And with all due respect, Senator Coash, I think your assessment is dead wrong. And the reason I know that is because I knew this question would come up. We've heard it talked about a lot on the floor from people like Senator Heidemann and Senator Gay, that the Legislature was complicit in this tragedy and this crisis, and has, over many, many years, underfunded this system. That's wrong. I went back and I pulled the budgets and the State of the Union addresses for every Governor since 1990 to the present. There's one mention of BSDC in all of this time and it's only in reaction to the loss of federal funds in this very biennium. I asked Fiscal Office this specific question: Did the Legislature underfund issues surrounding BSDC and DD issues over the last biennium? The answer was a resounding no, and I knew that to be the case because of people like Senator Don Pederson, people like Pat Engel, people like Chris Beutler and Nancy Thompson who served on the Appropriations Committee and who were members of this body and fought diligently to provide services at BSDC and to address other programs and policies surrounding DD services. I have the State of the Unions, I have those budgets. I'm happy to share them with you. It's important to be accurate in this debate. We must be accurate. And it's not partisan; it's accurate. In order to get an appropriate historical analysis we have to look at the historical facts, and that is what they tell us. We have not seen serious movement or investment towards this vulnerable population since 2001 when Senator Byars led the charge to utilize funds from the Health Care Cash Fund to address the waiting list. That was the last time we saw a significant investment in regards to these issues. This is also not being partisan; it's a fact. When Senator Ben Nelson left the Governor's Office there was not a

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waiting list in place. Colleagues, the meager investment represented in this biennial budget put forth by your Appropriations Committee of \$15 million holds the waiting list flat. It doesn't address the thousands of people crying out for services in this state. It holds it flat. I think that's important to remember, as well. And unfortunately it was the first thing up on the chopping block to pull back from after our most recent revenue forecast and I think that says a lot about who we are as a state. I think that says a lot of negative things about what our priority should and should not be as a state. It is not the fault of the families and the individuals who are in need of these services that we are in an economic downturn. They have no time to play these politics. [LB311]

SENATOR LANGEMEIER: One minute. [LB311]

SENATOR NANTKES: These are serious policy issues that need to be dealt with in a factual and accurate way. And I think we have to rely on facts, not rhetoric, to discuss them. Thank you. [LB311]

SENATOR LANGEMEIER: Thank you, Senator Nantkes and Senator Wallman. Senator Friend, you're recognized. [LB311]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I had that light on as a placeholder, but you know me. A microphone is in front of me. You know, we're all thanking Senator Ben Nelson here this morning. Let's...let me jump on the bandwagon. I wanted to thank Senator Ben Nelson for saddling with \$150 million waste site fiasco. I was in the Legislature when that happened. That was fun. We had to pay up. And guess who had to pay up because we had to pay up? All of your constituents. What that meant was there was no income tax relief, there was no sales tax relief that year. Thank you, Senator. Thank you for that one. That still stings. I remember that. What would happen right now if we got hit with a bill like that? That would hurt, wouldn't it. We have 94...we have upwards of 100 agencies in this state. Do they all do good work? And that's a rhetorical question. I don't know the answer to it. Are they all at the top of their game all the time? Do we need task forces on every one of them that isn't a code agency, or the ones that are, to figure out exactly what they're doing? Or when we find out do we just shut them off? If we find out they're doing a bad job, do we hack them and do we burn, and do we say, no, we're not going to throw money down this gopher hole anymore? We've got a main-line budget bill coming up later this afternoon sometime, maybe tonight. This is a marathon, it's not a sprint. And the interesting part about this whole discussion is because it's a marathon, because we know that it's that, or at least we're going to find out--for a lot of us we're going to find out it's a marathon. When this place gets dark and the bats start flying around, that's when strange things happen. Of those 100 or so agencies, less than a third, maybe closer to a third of those agencies are code agencies. That means the Governor looks at them, the Governor maintains, the Governor observes, the Governor manufactures, the Governor hires, the Governor fires to the degree that he can, and what a code

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agency statutory will allow him the type of power to exude. And because DHS is included as a code agency, the largest ship next to the Titanic that I've ever seen, because that's the case, it's probably more...my guess is, more than 50 percent of our state funding, our state budget, is code related. And in the process of moving a budget forward, the Governor has the luxury of being able to veto the entire budget or he or she would have the opportunity to line-item those 99 or...items. Go pick stuff out; say, I don't like this, I don't like this, I don't like this, I don't like what Appropriations did here, I don't like what the Legislature did here. Go do it. We've all seen it, or most of us have. We, on the other hand, have the ability to go through this budget too. And I'm not sour about this. I'm just telling you, this morning is worthless. It was all worthless. We could have gone in and picked out...we could go in on the main-line budget and pick out all kinds of things we don't like because Appropriations, we feel, didn't do the right job in this particular area, and start moving money around. We have that ability. [LB311]

SENATOR LANGEMEIER: One minute. [LB311]

SENATOR FRIEND: Every one of us has the ability to do that. Now Speaker Flood's heart just skipped a beat. I saw 25 amendments on a main-line budget bill once--25. Probably about 11:15 they started flowing real quick. People are sitting in their chairs having an ice cream bar and they're tired. So we can throw out all the rhetoric all we want out here, but action and the vote speaks. People outside of this body, outside of this vacuum that we're in, you know what ends up happening? Both parties end up taking those votes and figuring out where you were on them. They don't take your floor speeches. They might but they don't do any good. They take your votes. When I got done this morning... [LB311]

SENATOR LANGEMEIER: Time. [LB311]

SENATOR FRIEND: ...ranting and raving, I said there was a vote. [LB311]

SENATOR LANGEMEIER: Time. [LB311]

SENATOR FRIEND: Thank you. [LB311]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Lathrop, you're recognized. [LB311]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. I just wanted to talk...I turned my light on, not as a placeholder but because I knew I was going to follow Senator Friend. And I do have a number of things that I want to talk about and I'll try to kind of go through them quickly so I don't have to do this, turn my light on once again. But maybe to start with, the question that Senator Carlson presented, which is why do we have people suing to stay in BSDC and at the same time

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have all these problems? They can't both be true. And the reality is that at BSDC we have good, decent people, most of them from Gage County, who have...they are second- and third-generation people providing this care. They care for the people at BSDC as one would intuitively care for a child. The problem is that's not how you care for or provide services to one with developmental disabilities. And the difference is in leadership and the difference is in training. We have the good raw material down in Beatrice to perform the function BSDC is there for and do it well, but the people there need to be trained and they need to be led. That's why it seems inconsistent, Senator Carlson. It's not that we have lousy people there and that's why the families love the people that work there. But if we can train them and if we can lead them, and that really brings us to the frustration of the day which is a leadership issue. And I will take exception, because we specifically looked at this issue when we were having hearings, and that's, when did the problem start? The...BSDC was the gold standard in the '90s. The problems started after that, and regardless of when they started or what precipitated the beginning of the end, there had been many opportunities since 2001 which is when the first CMS survey indicated a problem. We've ignored it every time. And that's happened...in the last four years it has been acute and they have been violating seven out of eight conditions of participation and we didn't do anything about it. This isn't something that's decades old, and it has been something that could have been fixed in the last five years before we got to this place. That's my observation. Now Senator Friend suggests that if we don't like the way they're running things at BSDC, then we shouldn't fund them. I don't understand that. I think we're doing the only thing we can do because if we tell them we're not going to give them money, then what? Who do they call? You think they moved 47 people to hospitals overnight and that was appalling? You don't know what's going to happen if we don't give them money to run BSDC. They'll be calling guardians up and saying, come and pick up your ward. We don't have a choice as a Legislature but to provide the funding that's in this budget, but we have every right to express our concern about how it's going to be done and to warn those who are going to spend this money that we will hold them accountable and that's all we can do. We're the legislative branch. And it is not a realistic option to say, I'm not going to fund it. Or the providers that are providing the community-based services will shut down, BSDC will shut down, and we will say to those with developmental disabilities, there is no place for you in this state. You will...they'll live on the street. Many of these people no longer have family around. They're folks in their fifties and their mother and their father have passed on. It is not an option to say I'm not going to fund these services... [LB311]

SENATOR LANGEMEIER: One minute. [LB311]

SENATOR LATHROP: ...but we have every right to insist and to warn those who are going to spend the money that we will hold them accountable. I do want to agree with Senator Pankonin, who made, as he usually does, a thoughtful observation that Health and Human Services does do a lot of the most difficult work and the work that is hardest

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to evaluate, and to determine when they are successful and when they're not successful. That's true and he's given you a fair list. The question today isn't whether we should stop funding Health and Human Services. The question today is about the delivery of services to folks in this state with developmental disabilities. And as I've said, I think we're doing what we can about that today. Thank you. [LB311]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Gay, you're recognized. [LB311]

SENATOR GAY: Thank you, Mr. President. I handed out to many of you, we had talked about what's been going wrong at Beatrice. I handed out a memorandum that I know Appropriations Committee members had, Health and Human Services, and then this Special Investigative Committee had. I thought instead of where's the money going, here's where it's going. Look through here. Senator Lathrop is correct, and others: They're accountable for their plan. This is their plan and you've got to let it work. You've got to be a little bit looking into the future and not the past. This is the plan. Now you're going to fund it, I assume. We never know but it's in the budget. We're going to fund this. We make that point. We need to fund it but we expect results. Of course, who wouldn't? So that's just something I thought we needed to get on your desk and to have you look at and keep that, because in a year or sooner or whenever, you can come back and refer to it and say, well, we put \$10 million in this, we put however much in the OTIS program. Is it working? Well, you know where the money is going and you can come back and look at that time. Over the lunch hour I went and...you know, I had talked about what the opportunities were. I said...and I found a powers and duties of the Department of Health and Human Services. I'm going to hold it up here. I'm not going to hand this out. It's 58 pages long, very small type, of every portion of the statute. Now I assume Judiciary or somebody has this, Education, whatever. But when you put all these different divisions in here and ask what they're supposed to do, over the culmination of all these years you're asking them to do more and more. I've always said it's kind of like one of those things, you get home and you start throwing everything into a drawer when you get home. Pretty soon that drawer is overflowing. It's just a mess. And I'm just afraid that's kind of what's happened over these years. We look and we add and we add and we add. Each year somebody has an idea; let's add to it. So in order to go through this and make it a much more efficient operation, I guess, if that's what we want to look for. I don't know about efficiency is the end result is the service delivery is what we need to focus on. This is what we need to look through and say, are these still things that need to be done and which of these is a priority? Because I'm just not sure that 58 pages of these things are still necessary to this day. I'm sure there's some very good ones and pretty sure there's some pretty bad ones in here. So when we look at these statutes as we're adding to them, we need to get rid of them. And I'm going to...I know Senator Carlson was itching to ask me a question: Do you think things are getting better? And I'd agree with Senator Pankonin on this. In which division? We've talked all morning and now going into the afternoon talking about Beatrice, and it's an important

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piece of what they do, but yeah, there's good things going on every day in Health and Human Services, and there's good people out there trying the best. And there's a lot of things happen sometimes and you never recognize that. You don't want to sweep bad things under the rug. I'm not advocating that at all. But you know, it's one of those high profile things where if you hear something bad, it makes the news. When you hear something like they're 99.9 percent effective delivering our food stamp delivery, and we get...receive grants from the federal government, extra \$2 million here or there, that's on page 4 and you never see those things. But those things do happen and good things happen. And so when we're talking about...I hear the department, the department, the department, I do think we should talk about specific issues. And like I say, I don't have any problem. We need to discuss these issues that are happening in Beatrice but here's the opportunity to fix it, I hope; to follow up on things; to make sure that the money we are spending on our interim management team is good; that our clinical assessments are good; that in fiscal...transition costs are being used wisely. But those are the things I think we need to focus on in the next two years to make sure it's... [LB311]

SENATOR LANGEMEIER: One minute. [LB311]

SENATOR GAY: ...a properly run facility--it's one of many facilities that the state runs--but that it's more properly run. I'm very confident, with the committee, the LR11 committee, that there's some very good people on there, your colleagues that will help get to a good end result you can be proud of in two years. And Senator Coash is right on the mark there. I do think it's up to us a little bit. In two years, if it's not working, come back and say why not and how can we fix that situation. Thank you, Mr. President. [LB311]

SENATOR LANGEMEIER: Thank you, Senator Gay. Those still wishing to speak, we have Senator McGill, Nantkes, Carlson, Pirsch, and others. Senator McGill, you're recognized. [LB311]

SENATOR MCGILL: Thank you, Mr. President, members of the body. Before I yield most of my time to Senator White, I want to share a little bit from an e-mail that I got as part of the safe haven process. This was sent to me April 17. I don't feel comfortable sharing the name of this professor since I didn't tell him I was going to do this. But he is someone who has traveled the country recently reviewing SAMHSA grants, making presentations at various universities across the country. And he says that at all of the out-of-state functions my fellow scholars and scientists, even a high-ranking public health officer within the Center of Disease Control, wanted to know what on earth is happening in Nebraska. Of course, I asked regarding what. And the general question went something like this. You folks seem to not care much for your developmentally disabled, ignore your families and parents who have youth in serious emotional disturbances, and lead the United States in sexually transmitted diseases; what on earth is happening to the good life? And this man had no idea what to respond. And I

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don't have the answer to how we solve all of these questions, but I have been working on the mental health end of things. And one of the reasons that I wasn't pushing for more direct services money this year is because we are still trying to determine how to most effectively use that money in a responsible way. But I certainly support the money that we are putting into it right now and the money that we're trying to put into BSDC. But we do need to keep asking questions while we are still funding those programs to make sure that we do change this, not only perception nationally that we have that we're falling apart in terms of our services to our people, but the real life practical implications of the fact that our services aren't being effective. And with that I yield the rest of my time to Senator White. [LB311]

SENATOR LANGEMEIER: Senator White, 3:10. [LB311]

SENATOR WHITE: Thank you, Mr. President. Thank you, Senator McGill. For the benefit of many of the First Session senators, last budget year we went through a budget. It was proposed; it was urged upon us as appropriate, lean, efficient budget by members of the Appropriations Committee. Then the Governor vetoed a lot of stuff on it. He vetoed it...one of the things that upset me was he vetoed money for Meals on Wheels. And so I want, rather than to have a repeat...and when we had those vetoes, the members of the Appropriations Committee did not work to override any of them. They felt bound by some agreement inside of the committee that they would even support the Governor's vetoes. I would like to understand, as we move through this budget early on, if Senator Lavon Heidemann would yield, whether or not, Senator Heidemann, if the Governor vetoes a portion of this budget, will you support an override of that veto? [LB311]

SENATOR LANGEMEIER: Senator Heidemann, would you yield? [LB311]

SENATOR HEIDEMANN: I was in a short conversation with Senator Wightman. The question was...? [LB311]

SENATOR WHITE: If the Governor vetoes some section of this budget starting, let's say, anywhere in this area, but throughout the budget, will you support an effort to override that veto? [LB311]

SENATOR HEIDEMANN: Last year, I think there was one veto and I actually was part of helping to override the Governor's veto. [LB311]

SENATOR WHITE: That was last year, but this...that wasn't a budget year, as you know. Is there any agreement, to your knowledge inside the committee, that you will not support an effort to override vetoes, any one or all vetoes of the Governor? [LB311]

SENATOR HEIDEMANN: We had a very brief conversation. There is no agreement

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whatsoever. [LB311]

SENATOR WHITE: Okay. And in urging this budget on us, Senator Heidemann, are you making a representation that this is the appropriate budget? Because if items are vetoed out of it, I'm going to ask you whether or not you will support an effort to override it. [LB311]

SENATOR HEIDEMANN: I would have to make that determination at that time. As the budget unfolds and as we get down to... [LB311]

SENATOR LANGEMEIER: One minute. [LB311]

SENATOR HEIDEMANN: ...down the road, there might be something else that pops up that you could take the money saved from a veto override and put it into something that this body would think would be a priority. I couldn't make that determination this early in the process. [LB311]

SENATOR WHITE: All right. Then I urge the members to understand what's happening here. We're being urged to vote, generally, on a budget as a package, but the Chairman of the Appropriations Committee and other members are going to reserve the right to selectively strike portions of the budget, and they may be the sections that entice you to vote for the overall budget. What that means, folks, is caveat emptor--let the buyer beware. It's nothing against Senator Heidemann or the members of the Appropriations Committee, not at all. But understand, if they pitch that this is the budget you should support and vote now, it does not mean if the Governor selects something and strikes it out, that they'll be there for you then. And if you have a question about things that are important to you in this budget, it behooves you... [LB311]

SENATOR LANGEMEIER: Time. [LB311]

SENATOR WHITE: ...to get their commitments now. [LB311]

SENATOR LANGEMEIER: Thank you, Senator White and Senator McGill. Senator Nantkes, you're recognized. [LB311]

SENATOR NANTKES: Thank you, Mr. President. Good afternoon, colleagues. I think that we probably had a good enough dialogue in regards to my last time on the mike about the historical funding of developmental disability issues and BSDC issues in our state, and I think the facts speak for themselves. And if people have specific questions, again I'm happy to engage in that dialogue. A couple of points that were brought up this morning that I think are important to address and I told my friend, Senator Gay, this off the mike, and he was passionately advocating for continual aggressive use of waivers and other programs and policies to help us aggressively utilize federal funds and take

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the burden off of our state Medicaid rolls and the impact that has on our overall budget. And I kindly reminded him that there's a proposal that fits that bill very nicely sitting within his committee that I introduced this year, and that would mandate that the Department of Health and Human Services follow the lead of 26 other states that have applied for a family planning waiver from the federal government to expand those existing services critical to women's health in their states. And in doing so, have seen the fiscal estimate for what that policy would do in Nebraska translates into a savings from \$6 million to \$20 million a year in Medicaid savings in our budget. And as we are all trying to fund our different budget priorities and as economic times remain uncertain and difficult, I think it would be wise if we looked very, very closely at commonsense cost-saving strategies that could improve the health and welfare of Nebraska residents and at the same time have significant, significant budget impacts on our bottom line. So that's one point that I know was brought up this morning and I wanted to make sure that we at least had injected into the record as positive ideas that have been brought forward to try and address those terms in relation to Medicaid and how we can continue to move forward and fully and aggressively utilize federal funds in those areas. Senator Gay is absolutely right. The department has done a great job in terms of its food stamp accuracy. I think, however, it's important to remember that in broadening that program and ensuring that it reached more Nebraskans who needed that to care for their basic needs, it had to come through legislative mandate. Senator Gail Kopplin brought a bill forward in the last budgetary cycle that forced the department to aggressively utilize federal funds that existed within the federal food stamp program, and I'm so glad that so many members of this body saw the sound policy contained within that idea and we all worked together to support it and move it forward. And not only has that helped many Nebraska individuals and families meet their basic needs, but it has, in fact, it also translated into budgetary savings when we have expanded use and accuracy within that program on behalf of the department who's administering it back into the budget. And so I think that...while that's an absolutely great thing to point out, that we have to remember that that's not an organic proposal that we saw from the department or the administration, but rather it was something, a proud moment from this body, from this Legislature, and I'd like to see some continued efforts in regards to those kinds of programs. In regards to the budget as a whole, I think that Senator Heidemann has done a good job thus far trying to explain how the committee came to some of the decisions that it came to. But I want to remind you, colleagues, why this debate is so critical, as you know this is the one thing that we're required to do as a Legislature, is to pass a budget. And our rules detail very clearly the time frame and parameters for how that is accomplished. [LB311]

SENATOR LANGEMEIER: One minute. [LB311]

SENATOR NANTKES: This is our one sole constitutional duty that we have to be very mindful of, and that's why it takes so much time. And the reason that there's so much emotion, I think, behind the budget is because every single one of those dollars not only

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represents taxpayer dollars, which we have all pledged to be careful stewards of, but because those dollars represent our priorities. They represent real people in every single one of our districts, all across this state, who rely on those critical state services, whether it's in roads, whether it's in education, whether it's in human services, whether it's in corrections. It's the state workers on the front line who administer those programs and it's the people in the communities who rely upon them. And that's why it's important and that's why the emotion comes in. And as Senator White noted, it's not about personality differences, it's about having a responsible analysis of these priorities. And a budget is a moral document. [LB311]

SENATOR LANGEMEIER: Time. [LB311]

SENATOR NANTKES: This says what our priorities are. Thank you, Mr. President. [LB311]

SENATOR LANGEMEIER: Thank you, Senator Nantkes. Senator Carlson, followed by Senator Hadley. Senator Carlson, you're recognized. [LB311]

SENATOR CARLSON: Mr. President and members of the Legislature, the last time I was up I was beginning to ask questions of some of the returning members of the HHS Committee. And Senator Gay is over here at the side as he's walking over. In listening to him when he was on the mike, and this isn't putting blame or derogatory thoughts on anybody anytime because every person that's served on the HHS Committee and other committees tries to do the very best they can, but this came to light in December with our Special Session. And so Senator Gay, I would address a question to him. [LB311]

SENATOR LANGEMEIER: Senator Gay, would you yield? [LB311]

SENATOR GAY: Yes. [LB311]

SENATOR CARLSON: Senator Gay, in your opinion then, based on what we've listened to in the Special Session and what's taken place so far and listening to your earlier testimony, you would say we are making progress; we're headed in the right direction. [LB311]

SENATOR GAY: Absolutely I would say that and I think we made a huge step on Friday when, LB603, with the involvement a lot of people. I think that's a very big step. Are we done? Absolutely not. We've got to continue on. That's a great example of understanding a problem, addressing a problem, and now trying to implement that problem...or implement that policy that correct the problem. [LB311 LB603]

SENATOR CARLSON: Okay. Thank you, Senator Gay. I'd like to address a question to Senator Wallman, if he would yield. [LB311]

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SENATOR LANGEMEIER: Senator Wallman, would you yield? [LB311]

SENATOR WALLMAN: Gladly. [LB311]

SENATOR CARLSON: Senator Wallman, certainly you're aware and know what the problems have been at Beatrice, and now you're on the HHS Committee. Would you feel like we're making progress in the right direction from the time we had our Special Session in December until now? [LB311]

SENATOR WALLMAN: Yes, I would, Senator Carlson. I'm very impressed with this Claire Mahon lady, and she makes decisions and I was in Executive Board meeting with her where she talked to some of the leaders on BSDC. And it's like a big ship, you know. It doesn't turn around overnight but I definitely feel we're making progress. [LB311]

SENATOR CARLSON: Okay. Thank you, Senator Wallman. Senator Stuthman, I'd like to address a question to him. [LB311]

SENATOR LANGEMEIER: Senator Stuthman, would you yield? [LB311]

SENATOR STUTHMAN: Yes. [LB311]

SENATOR CARLSON: And Senator Stuthman, you've heard the questions that I've asked. I'd like...I'd be interested in your response. [LB311]

SENATOR STUTHMAN: Thank you, Senator Carlson. I really think that we have made some progress and the biggest issue that I think we have made progress in is the fact of the Special Session and the safe haven issues. I think we have done some wonders there, especially with, like Senator Gay and that bill that we passed the other day. But the fact is that with Beatrice, that home, I'm a little bit more concerned about that, that maybe we're not making progress as fast as I would like to see it, mainly because of the fact that we're not getting enough information from there and we do not, in my opinion, I'm not satisfied with the things that are happening there at the present time. I'd like to see things move along a little bit faster. But with an agency that large, it's really hard to see some real effect of it in this short period of time, Senator Carlson. [LB311]

SENATOR CARLSON: Okay, thank you, Senator Stuthman. How much time do I have left, Mr. Speaker? [LB311]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: One minute, 36. [LB311]

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SENATOR CARLSON: Okay. And Senator Howard, I'm not going to bring you to the microphone because I didn't warn you before when I had talked to these other people. I may talk to you on the side. Members of the Legislature, these are tough decisions, this whole process of the budget and trying to address problems. We all understand that sometimes we kind of shove it to the background. We can't spend money we don't have and I'm glad for that. That just means we've got some really difficult decisions. We don't have enough money... [LB311]

SPEAKER FLOOD: One minute. [LB311]

SENATOR CARLSON: ...to totally address the problems. We simply need to fund what we can and do the best we can with what we have. There are other areas that need to be addressed as well. Senator Council brought up one earlier: the area of corrections. And as I try and think about the people that are in our system that are there because of bad decisions that they've made, this maybe doesn't sound very good but I think we could evaluate. Some of those people are hopeless. They'll not be out. But most have the potential for rehabilitation. And I think the greatest area for potential future budget savings of anything that we can talk about is to have a correctional system that people, when they leave, do not want to go back and they're prepared for something better. And so as we make decisions as we go along, we shouldn't let the urgency of the moment... [LB311]

SPEAKER FLOOD: Time, Senator. [LB311]

SENATOR CARLSON: Thank you. [LB311]

SPEAKER FLOOD: Thank you, Senator Carlson. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR98, LR99, LR100. Continuing with discussion on LB311, Senator Hadley, you are recognized. [LB311 LR98 LR99 LR100]

SENATOR HADLEY: Mr. President and members of the body, this is the first time I've spoken on this because I've been doing a lot of listening. Being new to the body, you have to kind of get caught up. I just wanted to say a few things. One, obviously leadership is needed in the Department of Health and Human Services. And I'm sure the Governor recognizes this. The top leader in the Department of Health and Human Services, that position I believe is still open. So I encourage that we get the right kind of person that sets the tone for the entire department. I realize it's a big department but you need that leadership from the top, and I have every confidence that the Governor will appoint a type of person that will get the job done. Secondly, what do we talk about with Beatrice? I don't know a lot about hospitals. Mike Gloor knows a hundred times what I know, but I spent nine years on a hospital board and I know a hospital that would

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have to try and keep going on Medicare and Medicaid is in deep trouble. They can't do it. In essence, they need the private pay, they need the private insurance, they need those kinds of rates to keep going. That's exactly what Beatrice doesn't have. The private pay, the private insurance is the state of Nebraska. So we do have to worry about funding. We spent a lot of time this morning and this afternoon talking about what's happened in the past. A wise old man, one time, told me if the Lord wanted you to have 20/20 hindsight, he would have put a pair of glasses between your shoulder blades. Well, I think it's time we move on. I think we've got a plan to try and help in the future. The key is to hold people responsible to the future. I have not seen many alternatives than the one that the LB603 gave us, that the committee gave us, and so I think it's important that we support that. One last thing that I think is also important is that there are three other intermediate care facilities for mental health, developmentally disabled, all run by Mosaic: the Axtell, Grand Island, and another one in Beatrice. And if you picked up the Journal Star this morning, there was a quote in the "Around the Rotunda." This was the "Nonprofit listens to parent complaints about the state." And several of the people there "obviously impressed with the Mosaic presentation, had suggestions: Why don't you just buy BSDC or at least one of the buildings and run a program? But Mosaic representatives said they would have the same challenges the state does in finding sufficient medical and professional staff in Beatrice." I hope you remember that because that's going to come up later in this session. I hope you remember that there are three other places run by a nonprofit organization that's trying to do the same thing that's being done in Beatrice. I, for one, being new, I think we follow this, what we're doing, but we do hold people's feet to the fire. I think it's important that we move on, fund this. We've got a plan. Let's see how it works out. Thank you, Mr. President. [LB311 LB603]

SPEAKER FLOOD: Thank you, Senator Hadley. (Visitors introduced.) Senator Howard, you are recognized. [LB311]

SENATOR HOWARD: Senator Howard. Thank you, Mr. President and members of the body. I want to direct your attention to page 98 of our budget manual if you would, and if you will go down to line 65 if you've got that handy. I want to share some information with you and maybe this can be a moment of enlightenment for us all. This is a claim that's been submitted. It's regarding a lawsuit, Hirsh v. Lecuona and it's a settlement in the amount of \$803,000. The story behind this settlement is this individual, Lecuona was Commissioner of Labor, probably six, maybe seven years ago. And a number of employees of the Department of Labor came into one of our committees to testify on an issue that they were very knowledgeable about. And I want to point out to you that these individuals came in on their own time and made it clear during their testimony that they were not there on the state's time. The Commissioner of Labor at that time ordered Hirsh, who was a supervisor, to fire these individuals. Now when people, and especially people who are state employees, cannot come into our committees to testify on issues in which they are very knowledgeable and want to better inform us and are intimidated

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to the point where they're afraid for their jobs, I think we need to take a very hard look at that. We confirm commissioners. It's our responsibility to make sure that these people operate within the constraint of the law, and one of those constraints would certainly be people's rights to speak freely on their own time. The courts found in favor of Hirsh, the supervisor who refused to fire the employees, and he himself was fired by this Commissioner of Labor. This is costing us, as I pointed out, \$803,000. Lecuona is gone. He has no liability in this issue. He stuck us. Think of what that amount of money could do to help children if that were applied toward the safe haven issue, if that were applied toward ongoing services in Health and Human Services. The number of ways this could have been used wisely is countless. Instead, we're asking to pay out \$803,000 in a settlement caused by our Commissioner of Labor. What I'm telling you...what I'm saying to you is that employees that come in to testify to us, to our committees, on their own time, have the right to speak. I've asked Senator White if he would reflect on constitutional issues regarding this matter because I know he's well-versed on this and I think we should be very cautious and I would like to listen to his words of advice. Senator White, if you would like the remainder of my time. [LB311]

SPEAKER FLOOD: Senator White, you have 1 minute 40 seconds. [LB311]

SENATOR WHITE: Thank you, Senator. Senator Howard makes a wonderful point. The First Amendment exists under the basic assumption that we are a better people, a stronger nation, that we're more efficient, more honorable, more honest, more fair if (1) we have open access to information, and (2) people are allowed to talk about it. Sometimes that embarrasses certain bureaucrats. One of their reflexive ways of responding is to threaten people with their jobs to shut them up. It's expensive when they do that, not just because you lose an occasional lawsuit like this. The real expense is the abuse, the misuse of funds, the waste, the inefficiency never comes to light. I listened with great interest to Senator Hadley talking about it was time to move on and that we...but we'll hold them accountable. Senator Hadley, this is being held accountable. We had this problem identified to us several years ago when the Department of Justice started coming through when we ran through the safe haven, when we had various problems with Health and Human Services. So this is two years later. This is how you hold them accountable. You do what Senator Howard raised the point that we got sued for not--one of our managers--for not allowing to be done. You stand up and you honorably talk about the failures, the losses,... [LB311]

SPEAKER FLOOD: Time, Senator. [LB311]

SENATOR WHITE: ...and the damage; and that is holding people accountable. [LB311]

SPEAKER FLOOD: Thank you, Senator White. Senator Coash, you are recognized. [LB311]

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SENATOR COASH: Thank you, Mr. President and members of the body. I stand to clarify a couple of statements Senator Nantkes pointed out earlier. Senator Nantkes, when I said the problems landed here but they didn't start last year, I wasn't referring to the funding. I was referring to the leadership, the culture. There is a civil war of sorts happening at BSDC and I want to take a moment to educate the body on this. And it kind of has been played out when we hear that families are fighting to get their loved ones back while we have not allowed it. Families have a very specific and easy criteria for services to be provided. They want their sons and daughters to be safe, they want them to be happy, and they want them to be healthy. That's the criteria that families put on them. That's what they tell the staff. They tell the staff, I want my son to be safe, happy, and healthy. When we decide, as a state, to take federal money, the feds say, that's fine but you also have a responsibility to provide habilitation; that's what we're going to pay you for. We're going to pay you to assure that the people who you're supporting gain more skills than they had before you got into their lives. Two sets of criteria. The families here...or, I'm sorry, the staff here, the families say healthy, happy, safe. Now did we meet that? The state doctor says maybe not. But on the other hand, we had the feds say, you're going to provide habilitation. We failed that. We failed to provide the habilitation. So the feds say, that's fine, you can keep those folks there, but don't expect any federal money to come with it because you failed your responsibilities. Someone earlier mentioned that we put \$150,000, I think it was, Senator Rogert's amendment a couple years ago, to assist with the recruitment. That went to hiring temporary staff. You know why we don't have staff at Beatrice? They've already worked there. Everybody in that community has already, at one point or another, worked there and decided this is not the kind of place that I can continue to work. People are leaving their bosses; they're not leaving the work. I want to talk about the waiting list for a moment. I do appreciate the Appropriations Committee seeing fit that addressing the waiting list, stopping the bleeding is a important part of the solution. It hasn't been part of the solution for almost ten years. While we're talking about solutions, we've talked about what we can do. We can appropriate money. That's a solution. I'm committed to making sure that the resources are there, but if this is a black hole, I'm done. I intend to be part of the solution. I want to share with the body a little bit about some things I've been working on. We have a great resource on East Campus, the College of Education and Leadership. I have asked them to partner with Beatrice to find some sustained solutions to the leadership gaps at BSDC, because, folks, we'll be gone, all of us will be gone someday. The Governor will be gone. New people will be running this show and I'm committed to making sure that because we'll be gone and the people with developmental disabilities who depend on the services can have quality services, no matter who's in this room, no matter who's across the street. So I would encourage the body to... [LB311]

SPEAKER FLOOD: One minute. [LB311]

SENATOR COASH: ...take that into consideration. What kind of sustained change are

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we going to see? Thank you, Mr. President. [LB311]

SPEAKER FLOOD: Thank you, Senator Coash. Senator Wallman, you are recognized. This is your third time. [LB311]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I too appreciate Senator Coash's comments and observations. We're living in uncertain times. Never before, since I've been alive, have we seen this happen. So money will be there next year or the year afterwards? We don't know. So we have to make the most of what we have and also we're dealing with a very vulnerable population and we moved a bunch of them overnight, literally. That's part of the problem we have now. But it's done so we have to go from here. So these guardian ad litem, parents, siblings, they have to have assurances that we're doing something and we're doing it right. And I would yield the rest of my time to Senator White. [LB311]

SENATOR WHITE: Thank you, Senator Wallman. [LB311]

SPEAKER FLOOD: You have 4 minutes, Senator White. [LB311]

SENATOR WHITE: Thank you. I would like to do a couple of things in the time that Senator Wallman has been kind enough to give to me. First of all, I'd like to follow up on what Senator Howard said in talking about holding people accountable. Senator Hadley raises a great point: We need to hold people accountable. Well, management begins with the manager, folks. And under the current Governor's stewardship of Beatrice, we have had consistent abuse of inmates...of the patients that have resulted in a number of lawsuits. One we just settled for \$600,000, and yet we hear now of four or five more who are just now filing. So what could we have done for safe haven with that \$600,000? What could we do with the money from the next lawsuits? But even more dramatic, on a fiscal note, we lost \$25 million a year in federal money. What could the Appropriations Committee have done for safe haven with that money? I think, if I don't misunderstand, we had about \$16 million in spending towards solving some of the problems of safe have, and we lost because of flat-out arrogant mismanagement, \$25 million a year of federal money, but nobody stood up and really said, we're in the middle of a crisis here, folks. We have a raft of piled up liability in the form of lawsuits. We've lost federal funding. We're scrambling money to find money for children and nobody said, hey, bad management. You know, somebody, starting at the top, starting at the Governor, needs to stand up and say we made a lot of mistakes; it's cost the state millions of dollars, and even worse it's caused untold misery to human beings but we're turning around and here's our plan. And we've never had that. We've never had an open, honest acknowledgment of incredible mistakes that have fiscally been devastating to this state, and will be devastating for many years to come because that's the inheritance of being penny-wise and pound-foolish. They cut pennies to look good in the short term, and the devastating consequences of that are just now becoming apparent. It's like not

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maintaining your bridges or not fixing your roads. You look good for a couple of years until the bill comes due because the bridges fail and the roads crumble. Only these are human beings. Now one of the things I'd like to point out in this, another failing, if you look at this budget it looks like we're getting \$14 million back for money that should have gone for property tax relief to homestead exemptions. And yet at the same time as we get into the main-line budget, you're going to find out we didn't get that money... [LB311]

SPEAKER FLOOD: One minute. [LB311]

SENATOR WHITE: ...effectively to those Nebraskans, elderly, disabled, on very fixed and limited incomes, but we're still able to spend and send millions of dollars a year to people who have no ties to the state, whether it's in Tokyo with Kawasaki, or whether it's Ted Turner in Atlanta, or any other number of people who own property but really don't contribute to the overall economy. We're not sending the money back to our taxpayers and the proof is in this, in this very bill in front of you. Look at the refunded money or the returned money for the failure of the homestead exemption, and yet, when we get to the main-line, I'm going to ask each of you how you feel about sending Ted Turner \$73,000 this year. What could we have done with \$73,000 for a safe haven family? Because those are the kinds of questions. And that's the impact of bad management. [LB311]

SPEAKER FLOOD: Time, Senator. Thank you, Senator White. Senator Pirsch, you're recognized. Senator Pirsch waives his opportunity. Senator Dubas, you're recognized. [LB311]

SENATOR DUBAS: Thank you, Mr. Speaker, members of the body. It's been mentioned on the floor here this afternoon about just how big HHS is. I think Senator Gay mentioned 58 pages or so of programs or different things that the department, in some way, shape, or form, is involved in or has oversight of. So how do we get a handle on that? I introduced a bill this year. I believe it's still in the HHS Committee. LB247 would require accreditation. I was just looking at the Division of Children and Family Services to become accredited. But accreditation is a way for a program to have accountability, to set out a plan and then show how they're going to reach that plan. In 2004, Governor Johanns, then-Governor Johanns signed into law LB1083. That was the behavioral health reform and we are still looking at the impact of that bill today. It looked at...it also created a Behavioral Health Oversight Commission, and that commission made quite a few recommendations for how do we improve the delivery system of behavioral health services. And one of the things that they recommended was that we have both a financial and a performance audit of the operations of the Division of Behavioral Health for the purposes of providing an opportunity to start with a clean slate. The commission had, I think, about a dozen different recommendations to help us move towards community-based mental healthcare in the state. The department came in, in opposition to this bill. I was, frankly, disappointed in their opposition, even though the different

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agencies that work with the department, most of them are required to be accredited. So the department is working with agencies that provide services, asking them to have accreditation standards in place, but yet don't hold themselves to that same degree of accountability and standards. So we've mentioned, quite often, in the course of debate today, about how do we attain accountability; how do we get the information that we need; how do we find out that our dollars are being spent in the most effective way. We've raised far more questions than we have answered in this debate today, which is not all bad. We need to continue to raise these questions and to seek the answers. But I know Senator Nantkes mentioned a bill that she had introduced. We've all, in some...many of us, in some ways, have introduced bills trying to get a handle this very large department. They encompass the majority of our budget. They do have a lot of balls that they have to keep juggling in the air and provide a great many services to the citizens of our state. And as things get bigger and bigger and move farther and farther away the citizens that they serve, it does get much more difficult for them to really stay in touch with what it is that they're trying to do. But I think ideas like accreditation and others that have been mentioned today are ways that the Legislature can get that information that they need; that can demand...that can provide that continuity. Accreditation will be ongoing even after all of us have left. It will be an ongoing process that the department has to go through. Accreditation is different than the federal benchmarks that the agency is trying to meet, and we continue to get poor grades in reaching those benchmarks. [LB311 LB247]

SPEAKER FLOOD: One minute. [LB311]

SENATOR DUBAS: But accreditation is a process. It takes awhile to put it into place, but other states and other agencies that are accredited are proof positive that it works and that it allows them to put together that information to put out to the public that what they're doing is working and that the money is being spent in an effective and an efficient manner. So I hope to continue to work with the committee in trying to move forward these ideas that will help us get a better handle on what the department is doing and allow us to have more accountability to the constituents that sent us here. Thank you. [LB311]

SPEAKER FLOOD: Thank you, Senator Dubas. There are no lights on. Senator Heidemann, you are recognized to close on LB311. [LB311]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. We've had some good discussions on our deficit bill and I think our budget bills bring...give everybody an opportunity to maybe voice some opinions on topics that they want to be able to be heard on. So we've had that opportunity and at this time I urge you to support in voting for LB311. [LB311]

SPEAKER FLOOD: Thank you, Senator Heidemann. Members, you've heard the

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closing to LB311. The question is, shall LB311 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB311]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB311. [LB311]

SPEAKER FLOOD: LB311 advances to E&R Initial. Mr. Clerk, items for the record. Amendments, announcements. [LB311]

CLERK: Mr. President, two items, thank you. Senator Ashford has an amendment to be printed to LB63 and a new resolution, LR109, by Senator Ashford, calling for an interim study. That will be referred to the Executive Board. That's all that I had, Mr. President. (Legislative Journal page 1304.) [LB63 LR109]

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to LB312. [LB312]

CLERK: LB312, by Senator Flood at the request of the Governor. (Read title.) Introduced on January 15, referred to Appropriations, advanced to General File. I have no amendments to the bill, Mr. President. [LB312]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Heidemann, as Chairman of the Appropriations Committee, you're recognized to open on LB312. [LB312]

SENATOR HEIDEMANN: Thank you, Mr. Speaker and fellow members of the body. This bill makes appropriations each year in a biennium for the salaries and benefits of the 49 state senators. The separate appropriations bill is required by the State Constitution and funds the \$12,000 annual salary of each senator and the corresponding employee payroll contribution for Social Security. I urge you to vote in support of LB312. [LB312]

SPEAKER FLOOD: Members, you've heard the opening on LB312. There are no amendments. There are no members wishing to speak. Senator Heidemann, you're recognized to close. Senator Heidemann waives his opportunity to close. The question before the body is, shall LB312 advanced to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB312]

CLERK: 44 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB312]

SPEAKER FLOOD: LB312 advances to E&R Initial. Mr. Clerk, we now proceed to LB313. [LB312 LB313]

CLERK: LB313 is by Speaker Flood at the request of the Governor. (Read title.) Introduced on January 15; referred to Appropriations. Advanced to General File. There are committee amendments, Mr. President. (AM887, Legislative Journal page 1252.)

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[LB313]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Heidemann, as Chairman of the Appropriations Committee, you are recognized to open on LB313. [LB313]

SENATOR HEIDEMANN: Thank you, Mr. Speaker, fellow members of the body. This bill provides for the funding of salaries and benefits of certain state officers as required by the State Constitution and current laws of the state of Nebraska. This bill includes elected constitutional officers, the Parole Board, and the Tax Commissioner. I urge you a vote of support of LB313. [LB313]

SPEAKER FLOOD: Thank you, Senator Heidemann. Mr. Clerk, as you said, there are committee amendments. Senator Heidemann, you are recognized to open on the committee amendment, AM887. [LB313]

SENATOR HEIDEMANN: Thank you, Mr. Speaker and fellow members of the body. The amendment provides to the Appropriations Committee a recommended funding of the salaries and benefits of certain state officers required by the State Constitution of the said constitutional officers I have mentioned before. I urge you to support AM887 to LB313. [LB313]

SPEAKER FLOOD: Thank you, Senator Heidemann. Members, you've heard the opening to AM887. Senator White, you are recognized. [LB313]

SENATOR WHITE: Thank you, Mr. Speaker. One of the things that I have noticed with grave concern over the years, that as we've talked about the necessity of fiscal discipline, especially members of the various executive branches--the Treasurer, the Governor, and others--have really just beaten up often the Legislature about claiming that we are spendthrifts, that we do not value the public's hard-earned money, that we spend too much money; that even as they've talked that talk, they have behaved very, very, very differently in their own house where they could truly control their own spending, to establish, to prove to the public that they are careful fiscal stewards who watch spending. Would Senator Nantkes yield to a question, please? [LB313]

SPEAKER FLOOD: Senator Nantkes, will you yield to a question from Senator White? [LB313]

SENATOR NANTKES: Yes, of course. [LB313]

SENATOR WHITE: Senator Nantkes, have you done a study--for example, let's start with the Treasurer's Office--over what the amount of money allocated to the Treasurer's Office over the last four or five or six years has been and what kind of rate of growth we've seen? [LB313]

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SENATOR NANTKES: Senator White, to be clear I haven't conducted any sort of interim study or any sort of formal study, but these same questions have arisen in committee dialogue over the past budget cycle since I've been a member of the committee. So in pre-session work I utilized the state of Nebraska Annual Budgetary Report for the year ending June 30, 2008, put out by the Nebraska Department of Administrative Services. And I just matched up the General Fund spending growth from 2004 to 2008 with the difference on a simple Excel spreadsheet and provided this to our committee. And for example, it indicated that the State Treasurer's Office saw an increase over those four years of about--in their overall budget, general funded budget--of about 32 percent. [LB313]

SENATOR WHITE: What was that, I'm sorry? [LB313]

SENATOR NANTKES: The State Treasurer's budget in terms of General Fund obligation has increased about 32 percent in four years. [LB313]

SENATOR WHITE: Thirty-two percent of General Fund money increase in the State Treasurer's budget. So that's the money that they are allotted to run their own office. [LB313]

SENATOR NANTKES: That's correct. [LB313]

SENATOR WHITE: Over four years, 32 percent increase. At the same time we've been browbeaten about how, by various executives, of how we are not being careful stewards of the public money. Can you tell the ladies and gentlemen of the body, Senator Nantkes, what is the overall budget increase for the next fiscal year? [LB313]

SENATOR NANTKES: In the Treasurer's Office? [LB313]

SENATOR WHITE: No, overall, the whole budget. [LB313]

SENATOR NANTKES: Oh, the whole budget represents a 1 percent spending growth increase. [LB313]

SENATOR WHITE: So we're doing a 1 percent this year but the State Treasurer has done 32 percent over the last four years. What's the proposed increase in the State Treasurer's budget for his office over the next biennium? [LB313]

SENATOR NANTKES: Senator White, I'm not sure if I have that figure in front of me but I know there were quite a few items that he brought--well, his aide brought to our committee since he was unable to attend his budget hearing the past two years--that are included in the biennial budget. [LB313]

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SENATOR WHITE: Okay. So does he...is he looking at an increase, do you know, Senator? [LB313]

SENATOR NANTKES: I believe he is, yes. [LB313]

SENATOR WHITE: Okay. Perhaps Senator Heidemann will yield and let me know what the increase to the State Treasurer's Office is to be over the next two years, since he's had 32 percent over the last four. [LB313]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Senator Heidemann, would you yield? [LB313]

SENATOR HEIDEMANN: Yes. [LB313]

SENATOR WHITE: Senator Heidemann, does the State Treasurer's budget or the budget before the body include an increase in funding for the State Treasurer's operations? [LB313]

SENATOR HEIDEMANN: From what I'm looking at over the two years, I would presume not. [LB313]

SENATOR LANGEMEIER: One minute. [LB313]

SENATOR WHITE: Is that an assumption or a fact? [LB313]

SENATOR HEIDEMANN: From what I'm looking at, this...I just started to look at the operations funding for the State Treasurer and it appears...in '09-10 there's actually a decrease of 5.5 percent in operations and in the second year, in '10-11, it would be an increase of 1.9 percent, the way it looks to me. [LB313]

SENATOR WHITE: Are there any vacancies in the Treasurer's Office that are not being filled and funded? [LB313]

SENATOR HEIDEMANN: I was looking at my figures again. What was the question? [LB313]

SENATOR WHITE: Are there any vacancies in the Treasurer's Office that are not being filled and funded? [LB313]

SENATOR HEIDEMANN: I would have to ask that question. I'm not for sure. [LB313]

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SENATOR WHITE: Now let's go back to the Treasurer's. Beyond just operations, does he have other program growth that he is supervising that's going up? [LB313]

SENATOR HEIDEMANN: There are some state aid programs that he administers, the way it looks; yes. [LB313]

SENATOR WHITE: And are they going up? [LB313]

SENATOR LANGEMEIER: Senator White, you're on your time. [LB313]

SENATOR WHITE: Thank you. Are they going up? [LB313]

SENATOR HEIDEMANN: General Fund, it looks like not in '10 and '11, but it... [LB313]

SENATOR WHITE: Thanks. [LB313]

SENATOR HEIDEMANN: There is a show to aid to cities because of a MIRF switch, something that is taking place that probably wouldn't...it's a shift, a fund shift, I believe more than anything else. [LB313]

SENATOR WHITE: Well, Senator Council may have some information. Would Senator Council yield? [LB313]

SENATOR LANGEMEIER: Senator Council, will you yield? [LB313]

SENATOR COUNCIL: Yes, Senator White. I was just, in response to your...the question you raised, I just went through the Budget Book, and on page 72 it shows appropriations by agency, all funds, and in response to your question with regard to General Fund, as I read the budget document for fiscal year '09-10 versus prior year, so 2.4 percent. Now in terms...it doesn't show the same percentage but the General Fund appropriation fiscal year '08-09 was \$19,414,000 without deficits, and for '09-10 it's \$19,879,000. So that shows a slight increase. [LB313]

SENATOR WHITE: And that would be... [LB313]

SENATOR COUNCIL: Just General Fund. [LB313]

SENATOR WHITE: That would be an increase...over a 32 percent increase over the previous four years. It builds on itself. [LB313]

SENATOR COUNCIL: Well, according to Senator Nantkes' figures, yes. [LB313]

SENATOR WHITE: Okay. Thank you, Senator. I appreciate that answer. One of the

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things I would like this body to do as we look at salaries, which we're obligated to do, is whether or not the executives that we are going to compensate--and of course we're going to pay them and of course we're going to pass this bill--but when you do a salary review in any business, but it should be particularly true in the people's business, you evaluate their performance. How has our Treasurer done managing the expenses and costs of his own programs over the last four to six years? That would be a normal inquiry in any kind of a salary setting or review, and that's what we're about here today. So I urge the members to ask Senator Nantkes and others about, perhaps, the Governor? How has he done in managing the expenses of his office over the last six years? Has it increased? Has it decreased? Has it stayed the same? Has he shared the fiscal pain that we're asking the university, for example, that's going to get about a 1.5 percent over the next two years? Is he also hewing to that same fiscal discipline? Reasonable questions for tough times. Thank you, Mr. President. [LB313]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Wallman, you're recognized. [LB313]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Would Senator Wightman yield to a question? [LB313]

SENATOR LANGEMEIER: Senator Wightman, would you yield? [LB313]

SENATOR WIGHTMAN: Yes. [LB313]

SENATOR WALLMAN: Thank you, Senator. In regards to this budget increase, is there employee...is that how many...are we hiring anymore employees or is that staying the same? [LB313]

SENATOR WIGHTMAN: Well, for the state of Nebraska? [LB313]

SENATOR WALLMAN: Yes. [LB313]

SENATOR WIGHTMAN: I don't know that we ever look at that, total. We look at it agency by agency. [LB313]

SENATOR WALLMAN: But not total employees, huh? [LB313]

SENATOR WIGHTMAN: Well, I think a lot...I would guess that the total numbers of employees, I would be almost certain of it, will be reduced partly because in most agencies we require them, those agencies to absorb the pay increases, which will be about 2.9 percent, and the insurance costs or the healthcare costs of about 10 percent, and in most of the agencies they have to absorb that within their budget. So there is no way, in most instances, that they're going to increase, and in many instances they are

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going to have to cut just to maintain those pay increases. And those pay increases are mandated; we didn't pass those on. They are part of the last settlement with, in some cases, NAPE. And so those are going to be absorbed in a lot of the budgets. [LB313]

SENATOR WALLMAN: Thank you, Senator. I agree, some of these are...we can't do much about it. You know, whether it's CIR or whether there it be NAPE, they're a fixed cost. But I think somewhere down the line we have to look at healthcare costs. You know, our insurance policies, can we get a better deal? A deal is a deal. Maybe we could renegotiate some contracts. Some other states have. They've saved money. Are we about saving money here? I would hope so. Thank you, Mr. President. [LB313]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Pirsch, you're recognized. Senator Pirsch waives his time. Senator White, you're recognized. [LB313]

SENATOR WHITE: Thank you, Mr. President. I was pleased, after talking to Senator Mello, to learn that the Governor is sharing the pain. He has proposed a zero percent increase for his office operation over the next two years, and for that I commend him. I think that that is important and it's something we need to recognize as we go through these. I'd ask other members if they have evaluated the office expenses of other aspects of the constitutional officers. If you have not, you all have to search your own conscience whether or not you think you're doing your job by the people of the state of Nebraska in voting for salaries without evaluating them. I recommend that all of us do that. And I will have more comments during the main-line budget on various operations of these different offices, and hopefully we can discover whether or not, in fact, they are sharing the fiscal pain that we are asking our families, our retired, our developmentally disabled, and our schoolchildren and teachers to share. Thank you, Mr. President. [LB313]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Wightman, you're recognized. [LB313]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I did want to address one question that Senator Wallman had but I see he's gone now so maybe he won't. He was wondering if we could renegotiate the healthcare costs and the health insurance costs. And I might remind everybody that we are self-insured, the entire state of Nebraska. We hire an administrator, that administrator, in some instances, and that can be selected by employees, some by Blue Cross, most of them by either Blue Cross Blue Shield or Mutual of Omaha. So as far as renegotiating that, we do negotiate that either on an annual or biennial basis and we are constantly trying to keep those costs down. But what we're paying are the actual expenses plus the costs of the healthcare administrator. Thank you, Mr. President. [LB313]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Seeing no other lights on,

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Senator Heidemann, you are recognized to close on AM887. [LB313]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. This amendment would provide funding to pay our constitutional officers. I didn't want to...there's been talk about the State Treasurer's Office. There has been a growth in the State Treasurer's budget. A lot of that has to do with them taking over the State Disbursement Unit. There has been a large growth in that, really not so much in operations but because of a new program being created inside of this agency. It deals with child support. I just wanted to clear that up a little bit. I urge the adoption of AM887 to LB313. [LB313]

SENATOR LANGEMEIER: Thank you. You have heard the closing on the committee amendment, AM887, offered to LB313. The question before the body is, shall AM887 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB313]

CLERK: 42 ayes, 0 nays on adoption of committee amendments. [LB313]

SENATOR LANGEMEIER: AM887 is adopted. We return now to...the floor is open for discussion on LB313, the bill itself. Seeing no lights on, Senator Heidemann is recognized to close. Senator Heidemann waives closing. The question before the body is, shall LB313 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB313]

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB313. [LB313]

SENATOR LANGEMEIER: LB313 does advance. Mr. Clerk, LB314. [LB313 LB314]

CLERK: LB314, a bill by Speaker Flood at the request of the Governor. (Read title.) Introduced on January 15, referred to Appropriations. Advanced to General File. There are Appropriations Committee amendments, Mr. President. (AM888, Legislative Journal page 1252.) [LB314]

SENATOR LANGEMEIER: Thank you. Senator Heidemann, you are recognized to open on LB314. [LB314]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I'll save my opening to the committee amendment. [LB314]

SENATOR LANGEMEIER: Thank you. As the Clerk has stated, there is a committee amendment offered by the Appropriations Committee. As Chair of that committee, Senator Heidemann, you are recognized to open on the committee amendment. [LB314]

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SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. This bill appropriates funds for the reaffirmed and new construction projects recommended by the Governor for the next biennium. Also, and then approved by the Appropriations Committee recommendation, reaffirmed projects include those projects currently underway that have already received approval and funding previously but were funded over several years. I urge you the adoption of AM888 to LB314. [LB314]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. You have heard the opening on AM888, the Appropriations Committee amendment offered to LB314. The floor is now open for discussion. Seeing no lights on, Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question before the body is, shall AM888 be adopted to LB314? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB314]

CLERK: 44 ayes, 0 nays on adoption of committee amendments. [LB314]

SENATOR LANGEMEIER: AM888 is adopted. Mr. Clerk. [LB314]

CLERK: I have nothing further on the bill, Mr. President. [LB314]

SENATOR LANGEMEIER: Thank you. The floor is now open for discussion on LB314, the bill itself. Seeing no lights on, Senator Heidemann is recognized for close. He waives closing. The question before the body is, shall LB314 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB314]

CLERK: 44 ayes, 0 nays, Mr. President, on the advancement of LB314. [LB314]

SENATOR LANGEMEIER: LB314 does advance. Mr. Clerk, LB315. [LB314 LB315]

CLERK: LB315, Mr. President, a bill introduced by Speaker Flood at the request of the Governor. (Read title.) Introduced on January 15, referred to the Appropriations Committee, advanced to General File. There are committee amendments, Mr. President. (AM889, Legislative Journal page 1252.) [LB315]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. As the Clerk has stated, there are committee amendments offered by the Appropriations Committee. Senator Heidemann, as Chair of that committee, you're recognized to open on the committee amendments. [LB315]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. Am I opening on the amendment or the bill? [LB315]

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SENATOR LANGEMEIER: You can be recognized to open on the bill, but seeing the last time, I went right to committee amendments if that's okay. [LB315]

SENATOR HEIDEMANN: That would be my preference. Thank you, Mr. President. [LB315]

SENATOR LANGEMEIER: Then you're going to open on the committee amendments. [LB315]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. This is the main-line budget bill and this bill provides the main-line appropriations for the biennium that begins July 1, 2009, and ends on June 30, 2011. This measure includes the recommended funding for all state operations and aid programs. The bill includes authorized transfers from the Cash Funds to the General Fund and provides the necessary definitions for the proper administration of appropriations and personal service limitations. This is what the Appropriations Committee has spent its...the majority of its time the last three months on. And in difficult revenue years like we have seen this year in the state of Nebraska and across the country, there are a lot of actions that have taken place across the country that were very painful and also in the state of Nebraska. We probably wasn't able to do everything that we wanted to do this year and I think our budget somewhat reflects that, but when you look on the positive side there are a lot of things to be very thankful for. When you look at, across the nation, what other states are having to do with anywhere from provider rates to higher education to a whole lot of other things, K-12 education, state aid to the K-12 education, we have a lot to be thankful for in Nebraska. We have given increases to a lot of agencies. We will have an increase to K-12 education, to our university system, to provider rates, maybe not to the point that we might like them, but we was able to do it. And I think it's something that we need to be proud of and something that can be attributed to things, and I will say that. Number one is the stabilization money that we got from the federal government, helped by a long ways, that it had an influx of almost \$500 million, over \$500 million, into the main-line budget to the state of Nebraska. And also what came into play, in a large part, was the amount of money that we had in the Cash Reserve. And this came into play to a great extent also. We realized that we was not going to have the revenue coming in to sustain the amount of spending that we wanted, and at that time the Appropriations Committee made a decision to move money out of the Cash Reserve into the General Fund to continue spending at a level, at least, that we thought we felt was responsible. So maybe not everything is in the budget that everybody wanted but I do believe it was a good responsible budget and I'm expecting good debate on AM889 to LB315. Thank you. [LB315]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Mr. Clerk for a motion. [LB315]

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CLERK: Mr. President, Senator Friend would move to amend the committee amendments with AM1286. (Legislative Journal page 1305.) [LB315]

SENATOR LANGEMEIER: Senator Friend, you are recognized to open on AM1286. [LB315]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Senator Heidemann said that he was looking forward to some good, decent debate on this budget and then I'm the first one up. He's probably going, oh my, you guys...that's not the way he would have liked to see it go, I think. Members of the Legislature, here's what this amendment does, AM1286. Approximately \$1.3 million...it's been appropriated or the idea to appropriate a \$1.3 million increase in state aid to community colleges. Now that equates to approximately a 1.5 percent increase in both 2009-2010, and then '10 and '11 also. This amendment strips that down, that increase. This amendment would take \$1,058,997 away in '09 and '10. It would take \$1,078,632 away in '10 and '11 and it would put it into the General Fund. What it does, it leaves with a very spartan...it leaves an increase of a very spartan quarter of a percent, \$250,000 worth of an increase, in '09-10 and then also in '10-11. This morning was full of...as I have pointed out earlier, it was full of all kinds of joyous talk of fiscal responsibility. It was alluded to that we should use care. It was alluded to that we should show caution. It was alluded to the idea that we should appropriately analyze, even go so far as using cost-benefit analysis regarding our budgeting. I don't disagree with that. In some instances it was even alluded to that taking action to the best of our ability is probably a good thing to do. I don't know any...this is probably a crass way to describe it. I don't even know any other way to describe it. I don't like the state aid formula for community colleges, never have. I think it almost borderlines on ridiculous. The reason I think that is because I think to a great degree this was created--and this is arguable--but I think I would submit to you that it was created back when it was created for the purpose of tax equalization. It wasn't created to help education in a lot of communities. That's what they said they were going to do, but it was created for tax equalization. Now I think the reason that this is here in front of you, at least my reason, is not because I heard from board members in Omaha, from Metropolitan Community College board members. You know what? I don't talk to them. I know a couple of them but I don't think they like me and (laugh) they don't want to talk to me. Can you...go figure, right? How could that be? I brought this bill for three really key...I brought this amendment for three really key reasons and it was my idea even though I have talked to folks about it in general. One is a constitutional reason. I'm not going to act like somebody out there and start waving the constitution in your face, but I will say this. We're...under Article VII, Section 1, I believe that can be interpreted as us being forced to provide a K-12 education in this state--a public K-12 education. I believe we have to do that according to our constitution. Now some would argue that it should extend further. Some would argue that that is too much of a stretch. But that's what I believe. I don't believe we have a

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constitutional obligation to educate to the degree that we do in a community college setting. Show me a place in that constitution--and it's pretty thick book, obviously--but show me a place in that constitution where it says we have to provide state aid for community colleges around this state. It's not there. We created this. This is our monster. The second reason I think is fairness. Enrollment--let me give Metropolitan Community College as an example because this is what I know--enrollment increased by 6 percent last year and according to this formula the Metropolitan Community College is getting \$200,000 less. So it could be argued that their needs are greater, right? But in the infinite wisdom either of the people who have created the formula or the formula itself, which is an inanimate object so it can't have any wisdom, right? However, it's messed up. They have greater needs and they're given more of their property tax money away. So number two was fairness. I don't like it. I think it's skewed. I think it's messed up. Nothing against other community colleges around the state. I like those too. I've visited a lot of them and I've participated in things at some of those. This is not a condemnation of those. This is a fairness question. A week and a half ago (laugh)--let's go to the third piece, the third reason that this amendment is here--a week and a half ago we were fighting over scraps for K-12. Fighting over scraps. People were at each other's throat, to a degree, and probably not very happy. And it was labeled an east-west fight for the kids. We're fighting over scraps for K-12 education. And of course, as I mentioned this morning, we just took \$16 mill and we tossed it toward behavioral health. Nobody is arguing about that at all and that's fine. But now we're going to take \$1.5 mill, \$1.6 mill and we're going to give it to a bunch of parties who can't play well in the sandbox together. This is punitive. This is Mike Friend being punitive. I don't like what they're doing. And here's how you get to them. Remember, we talked about this, this morning, as well: the purse strings. Hit 'em where it hurts. The Nebraska Community College Association voted on February 23 to expel Metropolitan Community College from their membership in a 10-2 vote. I've heard this, this morning too: This group is a paper tiger. Who cares? I think Metro cares. I don't think they wanted that to happen. They refused to pay their portion of the 2009 membership dues. It's probably appropriate that they got kicked out. You know why they didn't want to pay those dues? Because they feel like they're getting jerked around. All right. It's real simple. K-12s in this state have, with the help of quite a bit of leadership, not just...not necessarily just on Senator Adams' part but in the past with Senator Raikes, the Department of Education, east and west, we may be making some progress, and that was a real fight. I'd like to start a fight here. I'd like to personally start it. That's what I'm here for with this amendment. They're fighting each other. Now they've got somebody else to fight and he happens to be sitting in the Legislature until they can get rid of him, which is soon, by the way. [LB315]

SENATOR LANGEMEIER: One minute. [LB315]

SENATOR FRIEND: Here's...I could sum it up this way: I don't want to do any of these guys any harm. I really don't. But I don't want to do them any good either. So what do

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you do? You can go down this whole budget. You can go down through every one of these items and you can freeze spending. I've seen it done, pretty close to being done when we had that \$700 million shortfall years back. That was lean. That was tough. Things like this weren't that out of the ordinary. A quarter of a percent increase. These guys...now, I know Senator Cook has a bill out there, LB340, that seems to be a pretty decent idea. I think this is taking it a step further. I think this will bring people to the table and this will make them talk and then they'll have a vested interest in talking. Mr. President, that's all I'd have at this moment. Thank you. [LB315 LB340]

SENATOR LANGEMEIER: Thank you, Senator Friend. You have heard the opening on AM1286 offered to the committee amendments to LB315. The floor is now open for discussion. Those wishing to speak, we have Senator White, Fulton, Pirsch, Cook, Mello, and Friend. Senator White, you're recognized. [LB315]

SENATOR WHITE: Thank you very much. I actually hit my light before Senator Friend's amendment so I cannot speak directly to his amendment as such, but would yield my time to Senator Friend if he should wish it, and if not I will address some collateral issues. [LB315]

SENATOR LANGEMEIER: Senator Friend, 4:40. [LB315]

SENATOR FRIEND: If you have stuff to say (inaudible). [LB315]

SENATOR LANGEMEIER: Senator White. [LB315]

SENATOR WHITE: I'll go ahead. Senator Friend does not seem to want the time. Let me address a couple of my concerns. We are talking about money here in this appropriations bill and we're talking, in this amendment, about cutting money for education. Now I do understand...it's my understanding that in LB315 we had to appropriate \$25 million a year additional money to Beatrice because we lost the federal money. I'd like that confirmed, if I may, if Senator Heidemann is available. [LB315]

SENATOR LANGEMEIER: Senator Heidemann, would you yield? [LB315]

SENATOR HEIDEMANN: Yes. [LB315]

SENATOR WHITE: Senator Heidemann, did we assume, for purpose of this budget, the loss of the federal money, approximately \$25 million a year, to go to Beatrice, and take General Funds money to replace it? [LB315]

SENATOR HEIDEMANN: Yes. It was approximately \$25 million; not quite that much in the second year. [LB315]

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SENATOR WHITE: So \$50 million over two years, approximately. [LB315]

SENATOR HEIDEMANN: Approximately. [LB315]

SENATOR WHITE: What might we have done...thank you, Senator Heidemann. I appreciate that courtesy. What might we have done with that \$50 million? Okay, \$50 million. Let's look at it right now because that is the cost of bad management. And actually it's just a down payment on bad management. I just looked and was brought to me the recent lawsuit. It wasn't four or five, it was six patients that are suing. Okay? That's just the beginning of the legacy. We haven't even been sued yet on a broad basis by the Department of Justice or the Civil Rights Division or anybody else, and I'm told those may come. So...but just today, just today we're not going to talk about the right or wrong of those for the moment. What we want to talk about is what did each of you and your constituents want to achieve in the next two years that you cannot fund? Was it economic development? Was it better roads for urban areas? Was it a stronger young farmer program? Was it an environmental effort? Was it additional funding perhaps. For \$50 million we could complete a big chunk of an expressway. What have we given up because we didn't effectively manage Beatrice? Now is the appropriate time to ask that, because they say you don't know what you've got till it's gone. It's gone, folks. Isolate what you wanted in your district and ask yourself what you could have achieved with that money. For myself, what would \$50 million have done to really answer the safe haven problem? What could we have done for mental health services for troubled children and their families with \$50 million? Because that's gone. Thank you. [LB315]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Pirsch, you are recognized. [LB315]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I would yield my time to Senator Cook should she desire to use that. [LB315]

SENATOR LANGEMEIER: Senator Cook, 4:50. [LB315]

SENATOR COOK: Thank you, Mr. President, and thank you, Senator Pirsch. I rise in opposition to AM1286 to AM889 for the simple reason that we all agreed a few weeks ago to support LB340, which is a study direct under the auspices of the Nebraska Postsecondary Coordinating Commission of certain aspects of the community college funding formula. I think everyone in this body would agree that the formula, that the mission, that the vision of some of the community colleges might bear out different results for the different campuses across the state, east to west, north to south. What I'm asking is that we offer a full consideration of the study that will be produced as a result of the bill, which is now a law, and look at that to inform our funding decisions and just acknowledge the hard work of the Education Committee and the interested parties across the state to bring that to fruition. So again I rise in opposition to my friend,

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Senator Friend's amendment to the Appropriations Committee amendment to LB315.
Thank you, Mr. President. [LB315 LB340]

SENATOR LANGEMEIER: Thank you, Senator Cook. Senator Cook, your light is next.
Waives her time. Senator Friend, you are recognized. [LB315]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. My
friend, Senator Ashford, just said what a great amendment; I'm all with you; I'm behind
you all the way. Oh, you didn't say that? [LB315]

SENATOR ASHFORD: (Inaudible). That was another (inaudible). [LB315]

SENATOR FRIEND: It was in another life. [LB315]

SENATOR ASHFORD: Another bill (inaudible). [LB315]

SENATOR FRIEND: Another bill? I think I know which one that is. Members of the
Legislature, I don't want to be disrespectful to the process. I never do. Even when I raise
my voice, you know I...it's because I guess who I am. But I'm pretty serious about this
thought process and let me tell you why. One of the things that's occurred to me and I
brought it up as one of the reasons that the amendment actually came--is priority. I've
said it on three or four occasions if I haven't said it a dozen times. We have to make
priority decisions constantly in this Legislature. Now I think the Appropriations
Committee, and every year it sounds like a broken record, did a pretty darn good job of
prioritizing based on my study and looking through this information. The problem is that
we all have individual priorities too, and let me give you a quick example. I was laughing
about my conversation with Senator Ashford. We're actually working together on a bill
that would need a certain amount of priority...or excuse me, a certain amount of
appropriation money. It would need some government funding. Not an excruciating
amount when you add it all up. It's not \$1.2 million but it's higher on the priority list for
me because I know how these people use that money when it's being implemented.
Crime prevention, on the front end. Also consulting and working with the private sector
in order to implement a lot of those crime prevention programs. Do you see what I'm
saying here? We all have one of these or we're going to have one of these before you
get done in the Legislature. You're going to have something you say, you know what, I
do...I don't think government is a total waste of time. I do think if we fund something it's
going to work, because either for the purposes of a private/public partnership or the
implementation is different than it would be in a different occasion. For whatever reason
you can justify to yourself, you're going to say that this particular appropriation makes a
heck of a lot more sense. Well, I am telling you right now that a \$400,000 appropriation
to crime prevention, stuff on the front end where we've got people on the ground in
some of our communities working with our youth, either from an educational standpoint
or just from a personal standpoint, a social standpoint, a real social standpoint. Not a

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deviant social standpoint; a productive social standpoint. That's going to be more effective than this money going to the community colleges, this addition. This...I know they are only getting 1.5 percent increase. They're not getting anything more than anybody else really, correct? I don't care. Do you know what it looks like to me? It's a bunch of babies who can't, again, play well in the sandbox. And I'm telling you I'm for...I will vote for Senator Cook's bill. I want them to get together and I want them to play in that sandbox well together because, quite frankly, let me...let's be honest. The Metropolitan Community College does not need to be on that board and they do not need to be with anybody else. Respectfully, I point out that they don't need...but that group needs them and that state aid program needs them. [LB315]

SENATOR LANGEMEIER: One minute. [LB315]

SENATOR FRIEND: Thank you, Mr. President. We spent a portion, a good portion of the morning talking about the purse strings. What do we have control over? What do we want to control? We have a lot of wants and need. We have a lot of wants and needs in our own minds and we all have egos and we'd like to think that we could have that ability and the statutory authority that the executive branch could have. Well, we don't. We have the egos but we don't have the statutory authority. I would say this is something we have control over. You send an absolute massive message to...we...on LB340 did we not spend a good 20 minutes talking about how these guys are bad players? They're not playing nicely. And you know what? Hey, Metro might be just as guilty as all the others. As a matter of fact, maybe more. But the bottom line is they're the ones that are feeling like they're on the outside looking in, half the time, and then in my view we've got a state aid program that's dysfunctional. [LB315 LB340]

SENATOR LANGEMEIER: Time. Time. [LB315]

SENATOR FRIEND: Thank you, Mr. President. [LB315]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Harms, you're recognized. [LB315]

SENATOR HARMS: Thank you, Mr. President and colleagues. Really I wasn't really going to stand up and say much here. I have some very strong views about community colleges but I'm not going to pass this point up. I guess the thing that I'm concerned about here is the people that we serve. The community colleges reach down into the heart of a community, and all this simply says is we don't care. Because they don't play well in the sandbox? That's not sand. These are people's lives. It's their only hope. I mean, I've worked with people from all different phases of income and I'm here to tell you it's the only hope for so many people, yet we're willing to address this issue and we're willing to punish them because they can't play well in the sandbox? I don't think that's what we're about. I think what we're about is educating people. I think what we're

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about is helping people who can't help themselves. You see, the community colleges is the first hope and the only hope for so many people. Without the community college system as it is today, we could not prepare our work force for a whole new changing world global economy. How do you think we're going to get Nebraska ready for the changing economy and the new jobs and the new opportunities? It's going to be through the community colleges. It's our only hope. I mean, who reaches out and helps students who need developmental education or remedial education? It's the community colleges. Who reaches out and begins to train people in vocational and technical education, or even starts talking about green jobs? It's community colleges. Who takes students who want to get into an academic transfer program but can't afford to leave home or because they are a displaced homemaker? It's the community colleges. Without a strong community college system, Nebraska would suffer severely. I mean, that's really what this issue is about. I don't care whether they play well in the sandbox or not. We're talking about students, we're talking about Nebraska's future. We're talking about important opportunities to help people who can't help themselves. In the community college system we...probably the fastest growing population base would be probably Latino. Secondly, would be displaced homeworkers; people who are single parents. That's who the community colleges reach. So are we going to stand here and say that I don't care about the community college system; I don't think they're important or they shouldn't be just because the constitution doesn't give us that opportunity. This is the heart of higher education, folks. A major feeder to all the other parts of higher education come out of community colleges. That's what this is about. If they don't play well in the sandbox, let's take those who don't want to play and let's put them in another system. So if Metro Community College doesn't want to be a part of this system, let them be independent. Take the funding formula away from them. Let them levy their property tax and let them go. Or you could look at other options. You could tie them in or any other community colleges into the university system. There are lots of different options and I don't think that's where we really want to be here. Where we really want to be is to fund them appropriately. Where we really want to be is to give them the opportunity to help people who can't help themselves. I could go on in great depth about the community college funding formula but I'm not going there. I think what we have done in regard to asking them to study this issue will resolve a lot of this. I mean, we'll find out where we need to be. We'll find out what changes need to be made. And by doing that through the Coordinating Commission, then you'll have a neutral... [LB315]

SENATOR LANGEMEIER: One minute. [LB315]

SENATOR HARMS: Thank you, Mr. President. You'll have a neutral review. You'll have someone who's looking at that neutrally. Having someone who is not involved emotionally about what's right and what's wrong about the funding formula for community colleges. So I would just tell you here, colleagues, that I rise in opposition of AM1286. I would urge you to do the same and I'd ask you to just wait to find out what the results are with the Coordinating Commission so we can really truly see what the

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issues are and what the fudging problems are and whether they've gone astray or whether they've not gone astray and whether or not they're meeting their mission or whether or not the Board of Trustees association should have greater strength to make better decisions for the community colleges. I mean, that's what these issues are about. So I just urge you to set this aside and let's move on with our budget. Thank you, Mr. President. [LB315]

SENATOR LANGEMEIER: Thank you, Senator Harms. Those wishing to speak, we have Senator Friend, Carlson, Wightman, and others. Senator Friend, you're recognized. [LB315]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. We don't like the analogy I used? Okay. I'll use a different one. And by the way, this is about...do you think legislatures and parliamentary bodies don't act punitively? I do. I've seen it done. We divided the Omaha Public Schools into three school districts three years ago. Was that punitive? I'd say it was. And this body did it. What do you mean, that's not what we're about? My whole time in this Legislature, that's what it's been about. How do we bring people to the table? How do we jerk with your money? How do we mess with their purse strings? That's what we do. That's what parliamentary bodies do. I won't hear that. That's not true. And then when I stood up on the floor and said, you know what, I don't OPS divided into three districts, you know what I had somebody stand up and say 20 minutes after that? You guys from Omaha quit whining. It's on the record; I'll go find the transcript. Those are fighting words in my home when I was growing up. Quit whining. All right, Jim, here I come and it's going to be with a baseball bat next time upside your head. That's the type of attitude that we've had in here since I've been here. All right, all that said, it's not the system that's dysfunctional. It's not the educational opportunities that are dysfunctional. It's the formula. I just laid that out. It's broken. It's for equalization, it's not for education. You've been hearing that over and over for years. We are not funding this system appropriately. That's my whole point to this amendment. That's why I brought it. And you want me to use different analogies? I can, and I can use different analogies also till whenever. My final point is this: There's no state obligation that we do any of it. It's not constitutional. It's borderline statutory. It was created by a bunch of folks that wanted tax equalization. That's what it was. That's what it is today. And I guess it just strikes a chord with me. Mr. President, with all that said, I would like to withdraw AM1286. [LB315]

SENATOR LANGEMEIER: Seeing no objections, AM1286 is withdrawn. Returning now to floor discussion on AM889. Those wishing to speak, we have Senator Carlson and Senator White. Senator Carlson, you're recognized. Senator Carlson waives his opportunity. Senator White, you are recognized. [LB315]

SENATOR WHITE: Thank you, Mr. President. Now that we're back more towards the main-line budget bill, I'd like to make a couple of observations. I talked to you about

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what the \$25 million a year, \$50 million would have done to each of your own districts. But what would it have done to the collegiality here? Fifty million dollars in the education budget would have avoided a really bruising struggle of several weeks. We found \$30 million because the teachers agreed to make contributions to the retirement fund they were not, in my opinion, legally obligated to do, but did it because we are on hard times. What would \$50 million more have done for the education of our K-12 students? Again, that's the cost of mismanagement. What will be the cost in the years to come? Now there are other things in this budget that give me great concern and I want to start raising them now so you can start thinking about them to see if this budget really fits overall with your thoughts and plans. Because remember, it will be subject to line-item veto. And remember, Chairman Heidemann said he may or may not support overriding some of those vetoes. He'll just decide whether he likes on an individual basis. But once you vote green on this budget, your chance to ask and try to shape priorities are gone, but the Governor's just begin. So if you want to play...I mean, I assume you ran to represent not only all the state as we've been told we should, but also your constituents, which is what the constitution says your obligation is. Now you need to start thinking about where the money is going and whether it fits the priorities important to your district and, yes, to the state as a whole. I have several questions. Would Senator Heidemann please yield? [LB315]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a question? [LB315]

SENATOR HEIDEMANN: Yes. [LB315]

SENATOR WHITE: Senator Heidemann, buried in this budget is there an expenditure of approximately \$115 million for property tax relief? [LB315]

SENATOR HEIDEMANN: I wouldn't say it's buried in here. It's in the book and everything is pretty well disclosed. [LB315]

SENATOR WHITE: Okay, I'm sorry. Embedded in this budget is there approximately \$115 million described as property tax relief? [LB315]

SENATOR HEIDEMANN: There's an appropriation of \$115 million. There's a \$112 million General Fund transfer for that purpose. [LB315]

SENATOR WHITE: Okay. We're taking money from our financial reserves to fund that program, correct? [LB315]

SENATOR HEIDEMANN: I don't know if you could characterize it like that. I mean, it's a General Fund...I wouldn't want to say out of the reserves. It's a General Fund expenditure. [LB315]

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SENATOR WHITE: Are we expending money from... [LB315]

SENATOR HEIDEMANN: Or excuse me, it's a General Fund transfer. [LB315]

SENATOR WHITE: Okay. Are we expending money out of the reserves to help fund this overall budget? [LB315]

SENATOR HEIDEMANN: Yes. [LB315]

SENATOR WHITE: And how much are we taking from the reserves to fund this budget? [LB315]

SENATOR HEIDEMANN: In excess of...it was \$190 million plus another \$56 million, so it should be right at \$250 million. [LB315]

SENATOR WHITE: All right, so of that approximately 100--was it \$112 million or \$115 million?--goes to this one program, correct? [LB315]

SENATOR HEIDEMANN: One hundred and twelve million dollars per year, yes. [LB315]

SENATOR WHITE: Okay. It's kind of one of the big gorillas in the budget. Fair enough? High dollar. [LB315]

SENATOR HEIDEMANN: Actually there's a lot of other things that normally spend a lot more money than that, but it is...I mean, any time...you're talking about a considerable amount of money. [LB315]

SENATOR WHITE: All right. Now this is the section that actually sends \$73,000 a year to Ted Turner; \$15,000 or more a year to Minneapolis for Target; \$30,000-plus a year to Tokyo for Kawasaki. Senator Heidemann, was there any reflection on whether or not we could alter the underlying bill so that those monies weren't sent out of state but we were able to restrict the property tax relief, which comes from sales and income tax ultimately, to people who live in Nebraska and actually pay that sales and income tax? Was there any effort to look at tweaking that so more money would be available either to reduce the amount... [LB315]

SENATOR LANGEMEIER: One minute. [LB315]

SENATOR WHITE: ...we're drawing down our reserves or to increase the amount of money for funding for, you know, frivolities like mental healthcare or education? [LB315]

SENATOR HEIDEMANN: We did...I mean, this was a topic in the Appropriations Committee. But I would have to be corrected if I'm wrong, but I don't believe that we

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could do that inside Appropriations. That would have to be done inside of the Revenue Committee. [LB315]

SENATOR WHITE: Was there any request by Appropriations to the Revenue Committee--of which I'm a member and I can assure you there was not--that this portion be revisited to see if the money could be restricted to Nebraskans? [LB315]

SENATOR HEIDEMANN: There's 49 senators in this body that can bring up anything before the Revenue Committee at any time. [LB315]

SENATOR WHITE: So the answer is no? [LB315]

SENATOR LANGEMEIER: Time. Thank you, Senator White and Senator Heidemann. Senator Mello, you're recognized. [LB315]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise in support of AM889 and LB315, but in support of our underlying main-line budget. I do think that, for the record, I know Senator Friend has some friendly disagreement, but the reason that we have a budget that we have today is not because of only I would say some of the hard work that Senator Heidemann and the Fiscal Office and the Appropriations Committee did over the last few months. But it's also because of the American Recovery and Reinvestment Act. The American Recovery and Reinvestment Act brought in over \$1.3 billion. If you look at your Budget Book on page 2, Senator Heidemann mentioned this morning at our budget briefing, the state of Nebraska, to help our bottom line in LB315 with the adoption of AM889 is going to roughly see about \$523 million directly from the federal government that's being placed into the state of Nebraska's budget. And in part, that \$523 million budget hole, so to speak, or budget plug, is and due in my mind to the courage of one of our elected officials in this state, and it's been no secret--Senator White mentioned it this morning--United States Senator Ben Nelson was the only member of our delegation to support the American Recovery and Reinvestment Act. He was the only one out of the five who took the time to try to actually move our country forward out of a very difficult economic crisis. What we have is a revised ERA bill that came from Senator Nelson and Senator Collins from the great state of Main that reined in spending and still provided a tax cut to 95 percent of Americans. Now I don't want to spend my entire five minutes cheerleading on the American Recovery and Reinvestment Act, but we should know, as a body, and we should be willing to let our constituents and the state of Nebraska know that without this act we would be facing almost a \$500 million shortfall. That includes the money that we took out of the Cash Reserve to help meet the current shortfall that Senator Heidemann mentioned earlier this morning on the floor. So thanks to our one senior United States Senator who had the courage to do the right thing, we are actually seeing a budget that actually increases General Fund spending by only 1 percent over the biennium. And in that 1 percent growth, what we do is we do make some strategic priorities. We do place

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education at that priority list. We do put developmental disabilities at that priority list. We do put provider rates at that priority list. But more importantly, we put job creation and saving jobs at that priority list. And that is what the stimulus bill essentially has done for us, is that we no longer have to fire or lay off as many state workers; we don't have to fire, really, off as many teachers; and we do not have to raise taxes in this budget. There is no gas tax increase. There is no general tax increase, in general, in LB315 or AM889, because of the hard work of the Appropriations Committee, but also because of the American Recovery and Reinvestment Act. It is that and that alone that has helped pave the way for us to make a sound fiscal policy to get us through these tough times. I do have a general disagreement, though, that we are in a fiscal crisis right now. Unfortunately there are some that say we are not; that we do not face the fiscal problems that other states face. [LB315]

SENATOR LANGEMEIER: One minute. [LB315]

SENATOR MELLO: I have to politely disagree, because as a freshman member on the Appropriations Committee I have learned the process, so to speak, of how we go about crafting our budget. But in that process I've learned an awful lot, and what I have learned is that there are better ways to craft a state budget. There are reform measures out there that our state can enact in the future with appropriate study and appropriate thought and bringing people together to help craft better budgets in the future that require cost-benefit analysis, require benchmarks, as what Senator Harms did in LB6...I believe it was LB652 (sic LB653), long-term planning. So with that, Mr. President and members of the Legislature, I encourage you to vote for AM889 and LB315, but realize the work... [LB315 LB653]

SENATOR LANGEMEIER: Time. [LB315]

SENATOR MELLO: ...ahead us is just beginning because we have four years... [LB315]

SENATOR LANGEMEIER: Time. [LB315]

SENATOR MELLO: ...to figure out better solutions... [LB315]

SENATOR LANGEMEIER: Time. [LB315]

SENATOR MELLO: ...to budget as a state. Thank you, Mr. President. [LB315]

SENATOR LANGEMEIER: Thank you, Senator Mello. Senator Hansen, you're recognized. [LB315]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I would just like to clear up a few things that Senator White said about my good friend

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Ted Turner. I've never met the man, Senator White. I do know he pays a lot of taxes in Cherry and Sheridan County. He owns about 460,000 acres. There is a church in the state that owns more than that. The Mormon Church actually owns more than that. They both pay taxes. Ted Turner pays between \$480,000 and \$600,000 a year in property taxes. For him to get \$73,000 back is not disproportionate. He doesn't live in the state, but those taxes stay in the state and I think that's very important. And when and if he decides to do something else with those acres and it does off the tax rolls, it's going to be devastating to that area and I certainly agree with that. Ted Turner did nothing for me, nothing for my operation when we settled my father's and my mother's estate because of the comparable land sales. But he's not the only one that bought land at a high price. A lot of neighbors bought land at high prices too. So unless you want to start a class warfare in the ranch community and somewhere else, I think that what he gets back in property tax relief from the \$250 million we appropriated this year, I think that he's well-deserving of that just like everybody else is to get that small return. And \$73,000 is not a small return but that's what his portion comes to, so. Thank you, Mr. President. [LB315]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator Wightman, you're recognized, followed by Senator White. [LB315]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. Senator Hansen stole some of my comments that I wanted to make. I don't remember the figures. Maybe Senator White can tell me again how much we were sending to Ted Turner, \$73,000. Now my idea of that is that that's an 8 percent credit, I think, or approximately that, that we're passing through. Senator Hansen had a little different figure than that. But if we divided \$73,000 by .08, that would indicate about \$900,000 of taxes that he's paying. So he is paying in \$900,000. If he's getting \$73,000 back, he's still paying \$817,000 or \$820,000, perhaps, give or take a few dollars. I would say for a person that doesn't live here, isn't taking advantage of the schools, isn't getting anything other than maybe some road maintenance benefits, that that's a pretty good contribution to the state of Nebraska. But as Senator Hansen mentioned, it isn't just Ted Turner. I don't...I'm not beholding to Ted Turner and I'm certainly he's not beholding to me. So I think it's representative of many other landowners--and some of them are family farmers across the state of Nebraska. There are many family farmers that probably pay \$50,000, believe it or not, in real estate taxes, and they're getting 8 percent of that back--\$4,000. Now I know Senator White has had bills that he would like to give all of that to homeowners and like to pass a lot more of that tax credit through to homeowners rather than a general credit to property tax, proportionately to how the property tax is paid. I think that gets back to your theory of redistribution of wealth. I would suggest that largely, even Senator Nelson's, and I certainly am not totally disagreeing with what Senator Mello says with regard to the stimulus package. I think it is doing a lot of good for us on a short-term basis. Senator Nelson did vote for that. He was the only representative that we have in Congress that did that. I've not heard from Senator

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Nelson that he intends to pay mine, my children's, my grandchildren's, or my great-grandchildren's share of that when it's to be paid back. But somebody is going to have to pay that back. And so I think we have to temper our remarks with regard to the stimulus package. Certainly there is good that comes from it on a short-term basis. On a long-term basis, I think it might be far more debatable and has been debated. But I think when we look at this whole redistribution of wealth idea, I think you will see that that's going to be paid back disproportionately by those people who pay a high rate of taxes and very little by many of the people who receive the benefits. But that's true of all that we do. That's true of our expenses that we're paying to maintain the federal government and the state government. But I do think we have to look at it with close scrutiny as to what we're getting for that stimulus package. Certainly it's helpful to us. It's been helpful to the Appropriations Committee and I will admit that on the short-term basis. I think much of the stimulus package probably did a good deal of good in spurring the economy, and so from that standpoint I think it's good. But I just don't think we can, without question, suggest that everything that comes out of the stimulus package is good. We do have to look at the payback terms. And we will be paying it back and it won't be just us. It will be our children; it will be our grandchildren. And I suspect we're far enough in debt that it will be more generations than that. Thank you, Mr. President. [LB315]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator White, you're recognized. [LB315]

SENATOR WHITE: Thank you, Mr. President. I think it's time for an economic discussion, okay? We have had bruising discussions here about how Nebraska is a high-tax state, folks. We are a high-tax state. What is the number one hallmark of a low-tax state like Wyoming or Florida, for example? They tax people who don't live in the state. They export the taxes. Wyoming does it by putting a severance tax on coal. So when Senator Hansen hits the switch on the light in his bathroom, he's paying Wyoming's taxes for them. It's decent of him that he's doing that. Okay? That's the hallmark of it. The corollary of that for economic development is you don't take dollars that are in the state, dollars that come from income tax and sales tax, if you want to run a good economy and ship them out of the state. Okay, that is the worst thing you can do if you want to develop your economy. You export your taxes, you keep your income. You don't export your income and keep your taxes, and yet that's exactly what we're doing for Ted Turner. We are taking your sales tax and your income tax dollars and sending it to Mr. Turner. Now I'm glad he thinks Nebraska is a beautiful place and he wants to own the land. Thrilled. But recognize the cost that has had on the rural lifestyle that so many here say they're fighting for. We can't keep young people in agriculture. Why? Because they can't afford to buy the land at the prices people like Mr. Turner pay because the land won't pay for itself. They could work for free for decades and not be able to discharge the cost of ranch land by raising cattle on them. Why? Because Mr. Turner and others use income to buy that land from nonranching operations. They don't

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care that it doesn't cash flow. Well, is that a good thing to be glad? Well, not unless you like to see a continuation of the depopulation of rural Nebraska that we've seen. Mr. Turner, by purchasing this land, other investors by purchasing this land, have turned the Homestead Act into the peon act. A peon was a person who worked the land but didn't own it. And that's what we are turning. The great heritage of the pioneers who came here to pioneer the land and own it is being reversed. We now have low-paid employees who work the land but don't own it. And what we're doing is exporting dollars and income from this state to those people, and it's devastating economically. As far as the redistribution of wealth, my good friend Senator Wightman needs to review what has happened in this country since the 1930s. We have the greatest difference between the very wealthy and the poor that we've seen in 80 years. Oh, there was redistribution of wealth, Senator Wightman, but it went the wrong way. Again, it has been the impoverishment of the middle class, of the small farmer, of the young man or woman who said they want to stay in their home. They want to stay in that county. They want to follow in their uncle, their father's footsteps, and farm. But because of economic conditions they can't even dream of entering into farming. And that's because we are encouraging ownership of land by people who don't live here. We're chasing our young people away and we're subsidizing that devastating social policy... [LB315]

SENATOR CARLSON PRESIDING []

SENATOR CARLSON: One minute. [LB315]

SENATOR WHITE: ...with your income tax and sales tax dollars. I defy anybody to come to the microphone, engage in the discussion with me, and tell me that that's a good thing, when you go back home and you drive by empty storefronts and you drive by places that when I was a child there were four farms on a section and now there's one farm on four sections, when you have consolidated schools and kids going 70 miles one way to school because the land is so depopulated and it's owned by people that never even set foot in the state. If you think that's a good thing, then you're coming from a different world than I exist in. And yes indeed, the wealth has been redistributed, but it has gone the wrong way. The Homestead Act was one of the greatest redistributions in wealth ever engineered. [LB315]

SENATOR CARLSON: Time. Thank you, Senator White. Those still wishing to speak: Senators Lathrop, Council, Lautenbaugh, Fulton, and others. Senator Lathrop, you are recognized. [LB315]

SENATOR LATHROP: Thank you, Mr. President and colleagues. In LB315, we address the waiting list, and I want to take a few moments to talk about the waiting list and the appropriation for that. When we talk about...and you probably heard me discuss this. If you're not in Appropriations or on the Developmental Disabilities Investigative Committee, you may not be familiar with it. The waiting list is a list of people who are

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waiting for services for a loved one with developmental disabilities. And typically, in Nebraska, we have about 200 people a year move off that list and we have a priority system that moves and replaces those 200 people with graduating seniors who can get day services and people called "priority ones," which means a priority one is a person who doesn't have anybody else to take care of them. So if Mom and Dad both die, you become a priority one, and now we're going to...you're going to be among the people that will receive services. Otherwise, we've said to those people for years, we're not paying for any of it; we're not providing services to any of these people; we're not going to take care of a single soul on the waiting list. And the waiting list has grown and it's grown by about 200 or 300 people a year. Why is that important? A couple things you need to know. No one family can take care of a profoundly developmentally disabled person on their own. They don't have the resources. Even a family of means can't do it. It wears them out. But what we have said for the last several years is we don't care. You take care of them; you love your son or daughter. They're going to live with you at home and you're not going to get services because we're not going to pay for them. In fact, we have a statute that addresses it. It's the Developmental Disabilities Services Act. It's 83-1216, and in subparagraph (3) it says, "It the intent of the Legislature that by July 1, 2010, all persons determined to be eligible for services shall receive services in accordance with the act." That would be a lot of people. In fact, I had a bill in, that took care of it in four years, and I think the appropriation was \$140 million or something. I mean, it was a big number--a big number. And the Appropriations Committee in LB315 doesn't fully fund the waiting list. In fact, what it does is it holds us steady. And I have to tell you, I appreciate what they've done on Appropriations because I didn't think we were going to get that much done, and in the last round of budget cutting it almost got cut, and so I'm grateful to those people who went to bat for the folks with developmental disabilities, I really am, and the \$15 million that are found in LB315 is helpful. At least we're not going backwards on the waiting list but we're also not doing what we said we'd do. And Senator White asked, what would we spend the money on if we had it or if we weren't spending it on the problems at BSDC or the consequences of BSDC, and this is certainly something that's important to me in helping these families out. When we were--just to let you know what that means to a family--we had hearings and we had them in Appropriations Committee and we also had them over the summer in the LR283 hearings. And mothers and fathers of children who are now 50 years old and they're 75, 80 years old, and they're thinking they're about to... [LB315]

SENATOR CARLSON: One minute. [LB315]

SENATOR LATHROP: ...leave this world, and they want to know that their son or daughter is going to be taken care of. And we say to them, we're not going to help. And so we will address some of those needs, at least stop us going and going backwards. The list is at 2,000 families now--2,000 families. We've promised them services in this statute and we are, because we continue to put this off in the good years and can't afford it in the difficult years, I again appreciate what's been done here, but certainly in

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answer to Senator White's rhetorical question we certainly could have spent the money helping these folks on the waiting list. And with that, thank you, Mr. President. [LB315]

SENATOR CARLSON: Thank you, Senator Lathrop. Senator Council, you are recognized. [LB315]

SENATOR COUNCIL: Yes, thank you, Mr. President. I have a couple of questions. Senator Heidemann, if you would yield? [LB315]

SENATOR CARLSON: Senator Heidemann, would you yield? [LB315]

SENATOR HEIDEMANN: Yes. [LB315]

SENATOR COUNCIL: Yes, thank you, Senator Heidemann. First, I appreciate the briefing you provided this morning on the budget and I'm going to be referring to the General Fund financial status that was distributed this morning. [LB315]

SENATOR HEIDEMANN: Yes. [LB315]

SENATOR COUNCIL: And directing your attention to line 32. [LB315]

SENATOR HEIDEMANN: Yes. [LB315]

SENATOR COUNCIL: You...am I correct? Your description of the \$18 million figure that's in the box is the variance between the...from the minimum reserve, which is the amount of money that's available for appropriation during this legislative process. [LB315]

SENATOR HEIDEMANN: For A bills. [LB315]

SENATOR COUNCIL: For A bills. [LB315]

SENATOR HEIDEMANN: Yes. [LB315]

SENATOR COUNCIL: Correct. And then you had indicated that if you went down to line 39 it shows that of the bills that are on Final Reading and E&R Final, that those represent \$12 million? [LB315]

SENATOR HEIDEMANN: Actually it would probably only be \$6 million. [LB315]

SENATOR COUNCIL: Six million, seven. [LB315]

SENATOR HEIDEMANN: Yes. [LB315]

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SENATOR COUNCIL: Well, in fact, if you turn it over it's like \$7.1 million if I... [LB315]

SENATOR HEIDEMANN: Around in there, yes. [LB315]

SENATOR COUNCIL: ...on the appropriations side for fiscal year '09-10. It's about \$7 million, right? [LB315]

SENATOR HEIDEMANN: Approximately, yes. [LB315]

SENATOR COUNCIL: Okay. So in looking at the AM889, I know one of the items that does not show on Final Reading or Select File is the bill that has been discussed with regard to the increasing the eligibility for the SCHIP program. And I was looking through the budget and I didn't see any reference to that at all. So am I correct in assuming that there is no provision in the budget, as presented, for an increase in the eligibility for the SCHIP program? [LB315]

SENATOR HEIDEMANN: I believe if...I believe that got rolled into LB603 and it's on Select File E&R Initial. It's in that \$6.4 million figure. [LB315 LB603]

SENATOR COUNCIL: It's in the \$6.4 million. [LB315]

SENATOR HEIDEMANN: Well, \$6.4 million and \$9.3 million in the second year. I believe that's where that got put into. [LB315]

SENATOR COUNCIL: Okay, and that was my understanding but I wasn't sure, because the description just spoke to behavioral health and omnibus/safe haven-related, and I just couldn't independently recall whether... [LB315]

SENATOR HEIDEMANN: It's Senator Avery's bill, isn't it? [LB315]

SENATOR COUNCIL: And I believe that's Senator Avery's bill. Was it LB136? [LB315]

SENATOR HEIDEMANN: I believe it was. I'm pretty sure that got rolled into LB603 and it follows that line, the \$6.4 million and the \$9.3 million. [LB315 LB603]

SENATOR COUNCIL: And in the \$9.3 million. [LB315]

SENATOR HEIDEMANN: Yes. Yes. [LB315]

SENATOR COUNCIL: My second question relates to a piece of correspondence that I assume that all of my colleagues received because it's addressed to Dear Senators. It was dated Friday and it has to do with the Nebraska Health Care Funding Act which

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was created under LB692 that provided for the certain public health initiatives, including the minority health initiatives. And if I could refer you to page 70 of AM889. [LB315 LB692]

SENATOR HEIDEMANN: This was...it's going to take a second. [LB315]

SENATOR COUNCIL: Yes. [LB315]

SENATOR HEIDEMANN: And if we need more time I can put my light on and we... [LB315]

SENATOR COUNCIL: And we can get back to it. But I just...it talks about the reference point for determining the eligibility. [LB315]

SENATOR CARLSON: One minute. [LB315]

SENATOR COUNCIL: And the issue is that the current statute provides that's it's determined on the basis of the most recent decennial census, yet we haven't had one since 2000. And the numbers are askew and we won't have the results of the 2010 until probably we're well into the 2010-2011 fiscal year. And I noted in the amendment it shows an increase in General Fund dollars to that program, and the Cash Fund remaining the same but it still contains the reference to decennial census. And I was just trying to determine what was the basis for the increase and if it addresses that issue. [LB315]

SENATOR HEIDEMANN: I...there's some questions you asked that I can look into and get back to you. It might deal with... [LB315]

SENATOR CARLSON: Time. Thank you, Senator Council and Senator Heidemann. Senator Fulton, you're recognized. [LB315]

SENATOR FULTON: Thank you, Mr. President and members of the body. We heard a little bit about this stimulus funding, the ERA package, and I find myself in a unique situation because I'm a state senator who serves on the Appropriations Committee, and so, yeah, to a degree I'm thankful that we had that to help balance our budget. But I'm also...I'm a citizen legislator, as you all are. We're also taxpayers. And it occurs to me that we need to take a step back and take a look at what's going on so that we can get our bearings and think with the same common sense that I believe exists within our populous. Joe Taxpayer is put in a situation where Joe Taxpayer should thank the federal government for taking Joe Taxpayer's money and giving it to state government to spend. Should Joe Taxpayer really be happy about that? That's what's going on. Part of the stimulus package had in it tax cuts, which again I'm thankful for. But take a step back and take a look at what's going on. Joe Taxpayer, in that case, should thank the

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federal government for taking Joe Taxpayer's money to give back to Joe in the form of a tax credit. It's kind of crazy when you look at in terms of what's really going on. We need to bear in mind it's not the state's money. It's not the federal government's money. It's money that comes out of the citizenry. Now I've said this many times before and this is one of those small profundities that I think is so simple that it gets overlooked: We have a need to tax insofar as we have a need to spend. We've heard about Ted Turner and we've heard about...we've heard, well, I think rhetoric, which would lead one to think that we are engaged in some sort of class warfare. That's not healthy for anybody. It's not healthy for the state or the country. There seems to be this underlying presumption that we have to spend a certain amount of money, and therefore we're going to craft our tax policy to hit certain individuals in different ways because we have to spend the money. We are here in the Legislature to craft a budget to determine how much of the tax dollars ought to be spent; how much of the people's money ought to be spent. It's one of the reasons why I got on the Appropriations Committee in the first place. I was one of those persons that was out there screaming and yelling: They're spending too much of my money. I just generally think that. I think to a certain extent it's true. The Appropriations Committee has put out a budget which increases spending by 1 percent. In legislative speak, that's a pretty good budget. But let us not forget that in the speak or the language of the average taxpayer, of Joe Taxpayer, that is still an increase, and a lot of Joes out there aren't getting increases. I want to flesh this out because I think it's being missed. Insofar as we have a need to spend, we have an accompanying need to tax. And what does that do in broader terms in society? We start to argue about how we are going to tax people, whether we tax the wealthy or the business owners, or if we're going to have a sales tax, whether it's going to hit the poor in a different way than it's going to hit the rich. All of those are important policy decision and important for us to debate. But bear in mind what necessitates that is our predilection to spend. And I submit to you that this budget that's been put forward by the Appropriations Committee is reasonable and responsible. So I rise in support of AM889, but also to interject a level of what I think is common sense, what I think the average Joe out there is probably thinking about our deliberations in this body. Thank you, Mr. President. [LB315]

SENATOR CARLSON: Thank you, Senator Fulton. Those still wishing to speak: Senators Wallman, White, and Campbell. Senator Wallman, you're recognized. [LB315]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. My favorite topic: property taxes. What does that do to the economy? Who wants tax increment financing to put on their factories or new buildings? What do they want off of there first? Property tax. This discerning class warfare, I don't know who pays the most taxes. I know the wealthy have far more opportunities to use public transportation, airfare. All these things are subsidized by the federal government. And who pays taxes? Lots of us pay taxes and I'm glad to pay taxes. If we get services for our government, reasonable, honestly it's a good deal. You know, we keep saying we're a high-tax state and I don't like to hear that. I know we are. Some elderly people move out of the state because of

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high property taxes on their homes. Their income is fixed. The rest of us, we may have businesses. It may go down or up but it's not fixed. So anytime you have a fixed income, folks, you're putting tremendous pressure on those who have property taxes. And I really appreciate the Appropriations, what they do. It's spend my money and that's okay as long you do a good job, Senator Fulton. And why are we going here? My friends, we have talks in coffee shops. They said, well, we're going down a socialist path. They're taking Joe's money, my money, and giving it back to us. Well, folks, the golden parachutes, all these things, these are the people that took General Motors down, Chrysler down. It was not the union. These guys signed the contracts. They did this so they would get a raise, and it was done with the federal government's blessing so the federal government would get more income tax and Social Security taxes. So all these things...and a famous senator from Nebraska said, we cannot afford a war in the Middle East. His name was Senator Hagel. And all this trouble we have right now is on account of the war in Iraq--inflation, rising oil prices--and we're paying for it now, the average Joe Taxpayer. So I'm very, very pleased with this and I'll vote green on this. I'll probably vote green on the appropriations bill. Although I have reservations we spend too much...you know, I'm conservative. Farmers have to make sure they can farm the next year. They have to plant their crops, save some money. It costs a lot of money nowadays to farm, not just taxes. Seed, fertilizer, herbicides, insecticides, the cost has almost tripled. So, yes, we pay taxes also. But I feel for the homeowners in the rural Beatrices and Wymores, the Blue Springs. They can't pay their property taxes because of low incomes, and these are people too proud to ask for help. So the food pantries are busy. Folks, we're going through a very interesting time in our life. We can either make it a lot better or we're going downhill. Society will never stay the same--never. You either go up or down. Business is the same way. If you study business, have business in college, you know that a business never stays the same. They can't survive. General Motors and those companies thought they could buy up failing companies and make more money by buying out the competition. [LB315]

SENATOR CARLSON: One minute. [LB315]

SENATOR WALLMAN: That doesn't work, folks. You better be a competitor yourself. Thank you, Mr. President. [LB315]

SENATOR CARLSON: Thank you, Senator Wallman. Senator White, you are recognized. This is your third time. [LB315]

SENATOR WHITE: Thank you, Mr. President. Would Senator Fulton be kind enough to yield to a question? [LB315]

SENATOR CARLSON: Senator Fulton, will you yield? [LB315]

SENATOR FULTON: Gladly. [LB315]

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SENATOR WHITE: Senator Fulton, you've described this as a good budget, a lean budget. Is that correct? [LB315]

SENATOR FULTON: Yes. [LB315]

SENATOR WHITE: And Senator Fulton, is a budget like this a matter of give and take? You get some things, you give up some things, and you come to a consensus in the committee? [LB315]

SENATOR FULTON: I don't know that the budget can be described that way but certainly the process by which the committee arrives at a budget that came be put to the floor, yes, that would be an accurate description. [LB315]

SENATOR WHITE: All right. And now it's being presented to the membership as a package, correct? I mean, we don't get to go through item by item on it, do we? [LB315]

SENATOR FULTON: We do. We have that ability to do so. [LB315]

SENATOR WHITE: Do you think we should divide the question, Senator Fulton, so we can do it that way and we have the same line-item veto power the Governor will enjoy later? Do you recommend that to the body? [LB315]

SENATOR FULTON: I don't recommend that, for the record. [LB315]

SENATOR WHITE: Okay. [LB315]

SENATOR FULTON: But we do have that authority, yes. [LB315]

SENATOR WHITE: Yes. So now here's the question, Senator. Will you support any effort by the Governor when he line-item vetoes an amount out of this budget? Will you support all efforts to override those line-item vetoes? [LB315]

SENATOR FULTON: It will depend on the issue, Senator. [LB315]

SENATOR WHITE: Okay. So if the Governor, for example, is ideologically aligned with you, which I think generally you are, he could go through and line-item out mental healthcare for the teenagers that we're trying to address after safe haven. You might, for example, decide to support his effort to take that money out of this budget. You would select, correct? [LB315]

SENATOR FULTON: Well, it's going to depend on the issue itself. First of all, if the Governor comes back with some line-item vetoes, which I think it's fair to assume there

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probably will be some--I don't know if there have ever been governors that haven't--it's going to depend on the specific issue. [LB315]

SENATOR WHITE: All right. And if it's an issue which ideologically you agree with the Governor on, you'll slash that out of the budget even though the budget, at this point, is being presented as a complete compromise package to us, and even though you, overall, say this is a lean, good budget. [LB315]

SENATOR FULTON: Yeah. I understand your line of questioning, Senator, and the short answer is not necessarily. If it's something that's been put into the budget with the collaboration of the committee and it serves to hold the committee together and hold the budget together such that we can put out what I think is a prudent budget, then in such a case I would not support the Governor's motion. [LB315]

SENATOR WHITE: Let me ask you, Senator, what's in this budget that you would line-item veto out or support the Governor? Tell me where the fat is, if in a 1 percent--I mean, most people would say 1 percent milk is dang near skim milk--but what's the fat in this budget? [LB315]

SENATOR FULTON: Senator, there is no fat in this budget. This is skim milk. We're all living on skim milk and I'm hopeful that we can vote LB315, with a lot of people wearing milk mustaches. [LB315]

SENATOR WHITE: Okay, then you would say there is no fat in this budget so there's nothing that's not necessary and nothing that should not merit an override of a line-item veto. [LB315]

SENATOR FULTON: I'm not going to speak with specificity to every part of the budget, but I can tell you that this budget, as put out by the committee, is an appropriate and reasonable budget. [LB315]

SENATOR WHITE: Well, I get that, but I'm asking a specific question. If there's something that would merit your support to sustain a veto, a line-item veto by the Governor, would you please have the courtesy, to the extent you can, identify it now for the members of the body. Because I'd like to know what you're eyeing before I vote on whether I want to put the whole thing through. [LB315]

SENATOR FULTON: Senator, if I would do that, would you extend the same question to all other members of the Appropriations Committee on the record? [LB315]

SENATOR WHITE: That is my intention to do so, Senator. [LB315]

SENATOR FULTON: I will defer until I have heard from other members of the

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Appropriations Committee, because the reality is we put this budget forward with a great deal of thought (inaudible). [LB315]

SENATOR WHITE: Wait a minute, Senator. Wait a minute. Now that...that is not a courageous act. [LB315]

SENATOR CARLSON: One minute. [LB315]

SENATOR WHITE: You asked me if I'll commit to ask all of them. I said yes. And then you say, we'll I'll answer that after I hear them. Senator, Senator, Senator. A little political spine there. Come on. What's weak in this budget? The body should know now. What should be cut out that you would support a line-item veto? Just give me one thing. [LB315]

SENATOR FULTON: Senator, I don't believe there's anything that should be cut out of this budget nor added to this budget. [LB315]

SENATOR WHITE: All right. Thank you, and I appreciate your courtesy and that forthright answer, Senator. Now we will move on to the next one. I don't care. Let's see who's here. Senator Nantkes, is there anything that you know of that's wasteful in this budget that should be vetoed and you would support a line-item veto of it? [LB315]

SENATOR NANTKES: Senator White, I will yield to a question. Thank you, Mr. President. Thank you, Senator White. (Laugh) I appreciate your line of questioning and I understand what you're trying to say. I support the budget as a whole. I will... [LB315]

SENATOR CARLSON: Time. Thank you, Senator Nantkes, Senator Fulton, and Senator White. Senator Campbell, you are recognized. [LB315]

SENATOR CAMPBELL: Thank you, Mr. President. Boy, am I glad I'm not on the Appropriations Committee. I've been listening to the discussion all day and I decided that I wanted to change the topic just a little bit, and make a comment about a good thing that's in the budget, and a caution. The good thing is we've heard today what has the Legislature done, have we over the years have we effectually brought about change. Several years ago the Legislature put into place a Medicaid reform plan. And I talk about it a lot, and the reason I do is because it's really important to the bottom line of every state budget. And while I'm very grateful for the federal funds that have been put in there, my caution to the colleagues as you look through this budget, note what good things we have been able to do through Medicaid reform, and the money we are saving because we are going to community-based programs, because we're willing to put money into public health centers across the state, because we're willing to help the elderly care in rural Nebraska. My caution to all of you is to pay attention to page 11. And on page 11 it talks about what the factor of percentage of increase will be in the out

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years. When the federal money goes away, we as a Legislature must pay very close attention to the Medicaid line, because unless we continue on the curve of creatively looking at solutions between the department and the providers, we have the potential of overwhelming our entire General Fund. So I would caution the senators that as you look through the Budget Book and think about the future, please keep that factor in mind because it will become critical in the out years and in the next ten. Thank you, Mr. President. [LB315]

SENATOR CARLSON: Thank you, Senator Campbell. Those senators wishing to speak, Senators Sullivan, Rogert, Nelson, McGill, and Friend. Senator Sullivan, you are recognized. [LB315]

SENATOR SULLIVAN: Thank you very much, Mr. President and members of the body. This has been a very helpful discussion and debate for me as a new senator, because as I looked over the budget this weekend I thought to my mind, how in the world are we going to eat an elephant and as I've been reminded, you do it one bite at a time, although recognizing as this discussion has ensued this afternoon, we can do that to a point but we still ultimately will approve it or disapprove it en masse. So we do have some hard decisions and sometimes I like to look at things holistically, and in the backs of my mind I'm looking at some of the questions that have been raised today with reference to tax policy and accountability, and I know we can't solve those issues in this budget bill. But I'm hopeful that in the process of our discussion and also some things that have been introduced, whether it's Senator Pahls's discussion with this bill earlier that there was some interest in pursuing discussion on sales tax exemptions, we've, I think, passed legislation...or approved legislation to go forward with a legislative planning group that will develop a strategic plan, and maybe out of that there will be some ideas relative to accountability. So I think we are, in my mind, starting to address some of these larger issues. I still go back also to Senator Fulton's concern about the fact that we have to tax to spend. And as a property tax owner to a certain extent, yeah, I can welcome property tax relief. I gave a little bit of it back last Friday when I was in Valley County paying my taxes, because I thought they were due on May 1 but they were due on April 30, so I had to pay a little bit of interest. But also the other side of me really is concerned about the fact that with this waiting list, we've had hundreds, thousands of people waiting for services in the state and I just really feel uncomfortable about that. Taking a property tax relief that maybe in some way had I not done that could have gone to some of these people, helping them that have been on this waiting list. So in my simplistic naive way of thinking, I think to myself, what if I had the opportunity to give back that property tax relief as an individual landowner and say, no, I don't want it, but I want it to be earmarked to go to some people in need. And maybe Ted Turner would do the same thing. Yeah, that's just, like I said, maybe it's a simplistic and naive way of thinking. But the long and the short of it is in this whole discussion, yes, we will have to vote on this budget bill. But in the long run, I hope that as policymakers, through some avenues that have already been sent up, we can think

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creatively and out of the box to solve what I think are some really crying needs in this state to help not only our most vulnerable citizens, but also to craft a vision of where we want this state to go over the long haul. Thank you. [LB315]

SENATOR CARLSON: Thank you, Senator Sullivan. Senator Rogert, you are recognized. [LB315]

SENATOR ROBERT: Thank you, Mr. President. I yield my time to Senator White. [LB315]

SENATOR CARLSON: Senator White, 4:50. [LB315]

SENATOR WHITE: Thank you for that courtesy, Senator Rogert. I want to continue talking about the economic policies buried in this budget, and I want to talk about the long-term competitiveness of this state. If we truly want to be competitive going forward, if we want to be a state with people who live across the state not just in a cluster of communities running down I-80, then we need to look at the forces, the economic forces that are at play in our rural areas. There is no question that there are bigger economic forces on the ownership of land in farming, that it takes more land to support one farm family. The size and pressure of the equipment is one of those factors. But interestingly, interestingly on the other end of that, the fastest growing section of the ag industry are small farms under 20 acres that grow organic foods for nearby communities. That's the fastest growing area. But what are we doing as a state to encourage people in this state to reenter agriculture. It's regularly noted that it's our biggest single industry. And what you will do when you examine it is, you will find out we are not only discouraging young people, we're not encouraging them, we're actually discouraging them. Okay, how are we doing this? Well, the first thing that happens is that when you make it economically more favorable to own the land but not live on it, to not work it, you chase off those who would work the land, to pay for the land, and make a living. Are we doing that? Absolutely. Ted Turner takes money from a variety...and I only use Ted Turner as an example. The Church of Latter Day Saints, other churches, other big corporations that hold ag land, they take money from other economic activities and they purchase the land for a number of different reasons, a hedge against inflation, a tax write-off, a diversification in the use of farm payments to balance a corporate portfolio. What they do is they take tax advantages both from the federal farming program but also from us and they out compete those who would actually look to the land to feed their family. They pay more for the land than the land itself can produce. What does that do? It turns young people from being landowners, independent farmers, exactly what the Homestead Act said did drive. The Homestead Act took impoverished Irish, German, Polish, Italians, immigrants, who had nothing and turned them into landowners. You couldn't get the land unless you lived on it and worked it. That was a requirement of the Homestead Act. Does our tax policy now support those who live on the land and work it? And the answer is no, it punishes them. If you live on the land and work it, your

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income will be taxed, the things you spend on town in Nebraska will be taxed in sales tax, and money from that tax will be shipped out of state to the people who out competed you to purchase the land in the first place. Does this bill really help those who actually live in Nebraska and own land? And I would tell you, it does not. One of the reasons property taxes are so high... [LB315]

SENATOR CARLSON: One minute. [LB315]

SENATOR WHITE: ...is because the valuation of ranch and ag land has been artificially increased because we're a good target to buy it. So the person that owns a farm now suddenly sees their valuation explode. Why? Because someone who doesn't live here has come in and bid an amount far higher for that land than the land can justify as an economic entity, thereby denying their child the right to get a farm, but also driving the cost up of holding their own old farm. And our response to that has been irrational. We are subsidizing people who are doing that activity with money we take from the people who live on the land. We need to do economic rewards for those who live on and work on the land, who live here, and who provide services. We do not need to reward simply ownership of the land. [LB315]

SENATOR CARLSON: Time. [LB315]

SENATOR WHITE: This is a reverse Homestead Act, folks. [LB315]

SENATOR CARLSON: Thank you, Senator White. Senator Nelson, you're recognized. [LB315]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to engage Senator White with a question or two. [LB315]

SENATOR CARLSON: Senator White, will you yield? [LB315]

SENATOR WHITE: I'd be happy to. [LB315]

SENATOR NELSON: I'm sure on your own time you will discuss further your economic theories, but can you tell me when we're talking about Ted Turner and the Mormon Church, just what percentage of land in Nebraska they own? [LB315]

SENATOR WHITE: As terms of percentage I cannot. I can tell you that they're one and two largest landowners. We've done a study for three years in my office, Senator. We've had interns looking at that and we have found a distressingly high percentage of land that's actually owned by people who don't live in this state nor do they live on or work that land. [LB315]

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SENATOR NELSON: Certainly, and a rather large percentage of that would be people who have retired from the farm and perhaps live in other states and we have companies here in Nebraska, of course, who manage the land for them and that helps our economy a great deal. But I would be interested in just the amount of money, if you can cite me some figures sometime that's actually going out of the state as a result of this absentee ownership. [LB315]

SENATOR WHITE: My estimates, and these are estimates, Senator, are that probably 25 to 50 percent of this fund will go out of state. Now remember that's not all ag land. Wal-Marts, McDonalds, okay, those corporations, they're owned...restaurants, they're owned stores, Targets, Kawasaki, all of those properties are, to the extent they're owned by out of staters, they're taking large chunks of this money out of our economy. It is a disastrous. And any serious economic student, whether it's conservative, progressive, whatever, will tell you, never take your tax dollars and ship it out of state. If you're going to give a tax break, make sure it circulates back through the economy. [LB315]

SENATOR NELSON: All right. The Homestead Act that you mentioned was certainly a good thing for Nebraska but that was on the basis of 80 acres or 160 acres of land. And as you and I both know, you simply can't earn a living on that small an area of land anymore and so this has contributed to our large landowners, our large farmers. And I don't know which came first, the large machine or the more land and the need for larger machines. Anyway, you raise some interesting questions. I'm not sure about the percentages and the extent of the damage that it's doing, but we can pursue that another time. Now, I have one final question. What is the cause or source of your fixation with the line-item veto? [LB315]

SENATOR WHITE: It's a bitter experience from two years ago, Senator. As you know, you were on the Appropriations Committee. That budget had a lot of items in it I didn't like, things that I felt were seriously underfunded. I was told what would happen was, that it was a compromise, that we got some things, we had to give up some things, and it was a package. And I voted for it. Well, I actually didn't vote for it because it had a tax increase, but I accepted that representation. Then I found out that in fact it wasn't. That what was occurring is, you sold it as a package during the votes here, but then the Governor gets to go back and pull the things out of the grocery sack he doesn't like and then folks that we're telling us the budget as a package was good, were not helping put those items back into the budget. It was kind of a, under which shell is the pea game, and while all the time the pea is actually in somebody's hand. [LB315]

SENATOR NELSON: All right. Thank you, Senator. Let me state my position in advance before you actually ask me the question as... [LB315]

SENATOR CARLSON: One minute. [LB315]

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SENATOR NELSON: ...how I'm going to deal with line-item vetoes. All of our actions on the Appropriations Committee are pretty much a matter of compromise. Sometimes we agree on a lot of things, but generally three or four of us don't like something and we vote against it. Our policy on the committee is that five votes prevail and therefore, we move forward as a group and approve these to arrive at a good budget even though we don't like some of the things individually. There are some things in the budget that I think are a little high. There are things that I wish were in there, but now that we're talking about them I'm going to support them here on the floor. If in fact the Governor does veto one or two of those items, I'm on my own. But I'm also going to look at what I think is best for the budget and also best for what the committee has proposed. So I think we have some independence there, but just because there is a veto doesn't mean that it's going to wreck our budget necessarily, and... [LB315]

SENATOR CARLSON: Time. [LB315]

SENATOR NELSON: ...we have to support it as a body. Thank you. [LB315]

SENATOR CARLSON: Thank you, Senator Nelson and Senator White. Senator McGill, you're recognized. [LB315]

SENATOR MCGILL: Mr. President, I yield my time to Senator White. [LB315]

SENATOR CARLSON: Senator White you have 4:53. [LB315]

SENATOR WHITE: Thank you, Mr. President and thank you, Senator McGill. You know one of the things and the fixation that Senator Nelson points out is that that's not how it worked two years ago. There was a deal on that committee not only to support the budget on the floor but then to vote as a block on any veto, and it was a disaster. And I was a new senator. We have 15 new senators here and understand this process. You may say I'm going to vote green on this budget because it does what I need for roads, or it does what I need for healthcare, or it does what I need for my schools. I don't like what it did for something else and I don't like what it did on this and I don't like what it did on this, but I'm going to go there. And you get behind it and you support it. And then it comes back and you find out that the Governor sometimes alone, sometimes in conjunction with discussions of senators who are his insiders, his confidantes, will strike out different things. And now it comes back and guess what, too late. Because a lot of the senators that were up here telling you that overall budget's a good deal are going to bail on the things you liked. Now that's the way it works politically. That's okay. But do understand that's how it works, because I didn't really get it when we did this last time, but I get it now. Now, I do want to talk about something that I think needs to be discussed here. We've talked about the \$50 million that could have been saved by proper management of Beatrice. I have identified a few and I can show you the work

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that we have done over three years from interns on the amount of money that under this program as fashioned will flow out of the state. My estimation over the life of this two year budget, it's probably a minimum of another \$40 million to \$50 million. That's my estimation. Now, I'll tell you what, we just found \$100 million, folks. Fifty million, it's too late, but it's not too late for the next \$50 million. It is not too late to look at this budget and think, can we change this? And I would tell you we can. We can take that tax credit and change it to a different kind. We can give it a tax credit for earned income from agricultural activities so that only those that actually work on the land and earn income in this state as ag people get the tax credit. We can do a lot of creative things. We don't just have to ship money out of state to people who are literally devastating the small and rural communities instate. And I mean that not just for Mr. Turner or those competing for ag lands, I mean it for Wal-Mart. We are giving a huge tax credit to Wal-Mart and I've already told you what Wal-Mart's done. You've already learned what Wal-Mart's done on Medicare and Medicaid over the last two years. We now have 1,286 families on Medicaid who work at Wal-Mart. They've devastated main streets across the state and we're going to give them huge tax breaks on each and every Wal-Mart all the way across the state. We're going to take money...and by the way, they take money out of the state, folks. That money goes on a boat to China, except that portion that goes to Arkansas. All right, that's not a net benefit. So folks, think, think about what you care about and as I go through them, and I will now continue to go through the various members of the committee to see if they can identify something in this budget that they think is bad. And the reason I do that is, when they say, yeah, I don't like this... [LB315]

SENATOR CARLSON: One minute. [LB315]

SENATOR WHITE: ...line-item, that may change how you think about this budget. And if we don't get it on General File, we'll get this done on Select File. Senator Hansen, are you available for a question? [LB315]

SENATOR CARLSON: Senator Hansen? I don't see, Senator White. [LB315]

SENATOR WHITE: Okay. Senator Harms? We have a sudden absence of committee members. Why? [LB315]

SENATOR CARLSON: Senator Harms is right behind you, Senator White, and he's headed for his place. Would you yield, Senator Harms? [LB315]

SENATOR WHITE: My question is simple. Senator Harms, do you see anything in this budget that you would support a line-time veto if it was removed? [LB315]

SENATOR HARMS: Senator, it really depends upon what the issue might very well be. There were some things I didn't like and there was some things that I did like and it just depends on what he chooses. Overall, I would probably support a veto. I think it's

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important. We've worked hard to build this budget and I can tell you that... [LB315]

SENATOR WHITE: A veto override or a veto, you'd support? [LB315]

SENATOR CARLSON: Time. [LB315]

SENATOR HARMS: Override. [LB315]

SENATOR CARLSON: Thank you, Senator White and Senator Harms. Senator Friend, you are recognized. [LB315]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Here's a novel thought. I'm going to actually talk about the budget. Members of the Legislature, if you actually look at the...the...on page 6 of the biennial budget report that the Appropriations Committee, members of the committee put together and sent to us, I think it...I think I wanted to point out where there is an area where we do really have to exercise caution. And Senator Heidemann actually pointed this out this morning and I didn't hear his entire point of discussion, but I did hear him allude to it. In lines 30, 29 through 37, particularly lines 34 through 37, where it starts...line 34 actually starts with annual spending growth without deficits, 35 is actually a two-year average growth, 36 is the estimated revenue growth rate/base adjusted, and 37 is a two-year average. Members of the Legislature, in line 32, the box where we have a negative \$385,538,478 number of an ending balance at minimum reserve, I think where caution needs to be exercised and this is what, I think to a degree, what Senator Heidemann was alluding to is, this is where the Cash Reserve is important. I haven't heard a lot of discussion yet where anybody wants to go kick the door to the treasury in and start moving money around to pay for those type of priorities that I was talking about earlier. But I have heard talk over this session about how folks have said, it is raining. The Cash Reserve down here at the bottom is a rainy day fund. It's raining now, we need to use that. Folks, it ain't raining, not yet. Not compared to the...line 36 in the estimated revenue growth. Now, this is a dice roll but if you look at the biennial budget, fiscal year 2010 and 2011 on line 36, the estimated revenue growth is 5.1 percent. And the next line for fiscal years 2012, or 2011 and 2012, the estimated revenue growth rate/base adjusted is 7.2 percent. Now, I've seen a 5.1 percent increase in revenue growth. I've never, since I've been here, seen a 7.2. Now, I've been told that in 2001 we had that. Well, I wasn't here. So I'm telling you, I don't know that I've seen that type of revenue growth. Now, I'm not saying these numbers are incorrect or the estimated revenue growth is incorrect. What I'm telling you is, just because it says that doesn't mean that's what it's going to be. That's where the dice roll comes in. That's where you're playing craps. And that box in line 32 is going to be directly affected by that number in line 36, by those numbers in line 36. Now, when you hear Appropriations Committee...I'm not on the Appropriations Committee, I'm on Revenue. And I know we killed a bunch of bills that would have reduced our revenue output or incoming revenue. That's the reason. We do not know in

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2011 and 2012, because none of us have that type of crystal ball, exactly what we're going to be facing. But I'll tell you what, they faced something like this a few years ago and we ended up with a \$700 million shortfall. This is a really, really weird economy right now. Growth is slow. [LB315]

SENATOR CARLSON: One minute. [LB315]

SENATOR FRIEND: It's strange. And I'm telling you, if we get to a late night here and people start banging on the Cash Reserve door, the door to the treasury, that needs to be stopped. In a hurry it needs to be stopped in its tracks. Because I won't be here and some of the rest of us won't, but in 2012 and 2013 my guess would be you're going to be pretty darn happy that you prevented them from knocking that door in when we had the opportunity. Thank you, Mr. President. [LB315]

SENATOR CARLSON: Thank you, Senator Friend. Senators still wishing to speak, Senators Pirsch, Wallman, Nelson, Avery, and others. Senator Pirsch, you are recognized. [LB315]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I intend to speak, address my remarks towards issues involving corrections. I'll make an initial comment though because it was kind of...a topic had been talked about briefly with respect to the stimulus, federal stimulus plan and I guess to the extent that that has occurred, you know, let's view it in its proper perspective. It is not a free ride. It is backed by taxes. Now those will be federal taxes as opposed to taxes paid on a statewide level, but it comes from the same taxpayers and they really don't mind if it comes from their left pocket or right pocket, it's coming from the same place. So there is no such thing as manna from heaven and so, I think we, you know, we have to be very cautious about the affects of this stimulus as it is a short-term stimulus as it runs out, how is this going to affect our state budget and our ability...can we sustain the programs that are being funded by this short-term stimulus money. And so I think that's important to take a look at. That said, I'll move on to the issue that I did intend to comment more about, which is corrections. Currently we are somewhere in the ballpark of about 140 percent of maximum capacity in the state. And so what happens is if we are at some point in time sued, the state, for violating constitutional rights with regards to, by the prisoners, by that overcrowding in other states, courts have entered into the matter and asserted jurisdiction and said, we, the courts, will decide, not you, the Legislature, what is to be done at this point. And the courts have said in some instances, we're going to start releasing prisoners and that could well mean that the most dangerous prisoners, who are currently held in our facilities, will be released. Or it could mean that the courts come in and order the state to build a new prison facility, which could run over \$100 million and has in order states. And so we need to take a proactive approach to this potential problem rather than reactive, and operate in a crisis mode once the courts assert jurisdiction and have taken our ability to play a role in this out of the equation.

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And so that is what I would, you know, obviously it's, as you can see, corrections is a big investment that we have in our budget here. And so going forward I think it's incumbent upon us and I appreciate Senator Council's statements that, and over the interim I intend to look into, looking at ways that we can maintain the most, the largest role that we can as a Legislature in guiding the best outcome for the people. We need to...what that may involve is developing, identifying groups of offenders who are at low risk of, to the public, who are...they're essentially nuisance offenders who are putting their financial burden upon the taxpayers of the state with their incarceration. People we're mad at, as opposed to... [LB315]

SENATOR CARLSON: One minute. [LB315]

SENATOR PIRSCH: ...people we fear. And finding out ways that we can shift that burden to those offenders, have them, have programs in which they're able to, you know, help pay for then that help address the things that they need to do to rehabilitate themselves and to keep themselves from becoming involved in the...in our correctional facilities. And so I think that that's an important...I'd just like to kind of call your attention to that figure in the budget now because it is an important figure, and as we go forward I'd like you to kind of pay attention to some of the interim actions that we take as Senator Council and I sit on the Community Corrections Council and we hopefully will come back and have some ideas to make this possibility a reality, so. [LB315]

SENATOR CARLSON: Time. [LB315]

SENATOR PIRSCH: Thank you. [LB315]

SENATOR CARLSON: Thank you, Senator Pirsch. Senator Wallman, you're recognized. [LB315]

SENATOR WALLMAN: Thank you, Mr. President. Thank you, Senator Pirsch. I have a definite idea for the corrections. Send them to the state of Arizona. They do it a lot cheaper. But in regards to Senator White's Homestead Act, I gave a dedication speech for the new Homestead building and Senator Fortenberry was there and myself. And right after I got done speaking, a Native American stood up in the crowd and he marched right up front and he said, I want you to know, the homestead land, you took my, you took my, you drove my people out of Nebraska. We were not considered citizens. So we've done some atrocious things as a government because they weren't considered citizens. They could not homestead on the place where they lived and so that was a benefit to us. And so I yield the rest of my time to Senator White. [LB315]

SENATOR CARLSON: Senator White, 3:49. [LB315]

SENATOR WHITE: Thank you. And I thank Senator Wallman for reminding us that all

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acts have costs. And unfortunately the Native Americans paid a very high cost even for something that most of my people, the Irish, thought was a positive thing for them was a disaster. Let me continue the kind of the interrogation of the committee members. Senator Heidemann, I think, has said, if I got this correctly, that he can't commit. That he would in fact support a veto override for all vetoes. There might be some things he would vote with the Governor and try to sustain a veto, is that correct Senator Heidemann, nodding? A nod is as good as a wink. All right, he's nodding. Thank you. We are, however...not heard from Senator Wightman, who was...if he'd yield, who was kind enough to come to me and point out, I think we've agreed that initially there was a commitment on the committee that they would vote as a block on whether to veto override or not. And then after some pretty stormy discussions that changed, and individuals were cut loose on, I think, what Senator...if Senator Wightman would yield. I think it was three different votes. [LB315]

SENATOR CARLSON: Senator Wightman, will you yield? [LB315]

SENATOR WIGHTMAN: I will yield. [LB315]

SENATOR WHITE: Senator Wightman, why don't you explain to the members of the committee what you recall on the Appropriations Committee blood oath on veto overrides. [LB315]

SENATOR WIGHTMAN: Well, first of all, I'm not going to give a blood oath. Second of all, I don't want to be in the position where I said, first I voted for it and then I voted against it and then I voted for it. But I will try to answer the questions and there was discussion in our committee. I don't remember whether...it certainly wasn't a blood oath that we would support the Governor and there were several of us who objected to that and said that it's our budget, that we shouldn't be bound by supporting the Governor on every veto that he did. And as I remember there were nine issues. I'm better with numbers than I am with descriptions of the particular vetoes or the overrides. I think there were nine. We actually voted as a unit that three of us could vote...or that all of us could vote our conscience on three issues. That we would stick together on six. Again, I don't know that it was any kind of a binding resolution, but that's what we determined we would do. Actually there were four votes, as I recall, because first we tried to encompass all three of the vetoes that we were going to try to override, those of us who were going to vote for override of the veto. We'd do it all in one. That failed and then we took them up individually and so there were actually four votes. I know several members of the committee, including myself, voted for all of those overrides and that was the first year. And then last year, I think generally we supported the budget and voted against the vetoes. But again, I don't remember all of the issues. [LB315]

SENATOR CARLSON: One minute. [LB315]

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SENATOR WHITE: Senator Wightman, is there any such agreement in the Appropriations Committee today or is everyone going to vote their own conscience on each line-item veto should any issue from the Governor's Office? [LB315]

SENATOR WIGHTMAN: I think everybody will end up voting their own conscience as I understand it. Now, I've made the argument in the committee that it's our budget bill and the presumption should be in favor of the committee's budget and not the Governor's veto. But I still think that you pick your battles in an organization such as our Legislature, and you maybe don't vote for every one of them. Right now I can't tell you that there's any I would absolutely not vote to override the veto. But I'm not, also not saying that I would vote to override every one of them if he had six vetoes. [LB315]

SENATOR CARLSON: Time. Thank you Senator Wallman, Senator White, and Senator Wightman. Senator Nelson, you're recognized. [LB315]

SENATOR NELSON: Thank you, Mr. President and members of the body. I didn't have quite enough time before to pursue a couple of other thoughts and statements. I...most of us here have been here just the two years, we're into our third year, and for the benefit of those of you that are new, I am sure that this budget process and the budget bill itself appears to be a little bit overwhelming. And it's probably to your benefit to sit and listen and observe. I have to say that as a member of the Appropriations Committee, as you know we spent a great deal of time, and as we go through initially with the fiscal analysts and their various areas of expertise, we are able to find out what the Governor has done as far as specific areas. I'd like to remind you that as far as all of his code agencies, they were instructed to cut their budget by 5 percent and all of them managed to do that. And that was helpful to us. There were times when we were below the Governor in what we thought we should fund. There were times when we were above and we were right on with the Governor. I don't think any of us have any idea of where a line-item veto might pop up. But the point is that we have arrived and I support this budget and the amendment thereto. I think we've got a good solid budget. But that budget is based on our collective understanding and agreement and compromise on what we think will do the best for all of us and for the residents of Nebraska. And I think that's how we have to be guided. If there is a veto, there may be two, three, or four, we don't know. And it may be because the Governor felt that we were spending too much money in another area, in one area, and his judgment was that that was not the best use of our money. That's why the Governor's there. That's why he's empowered to veto some of the things that we might want to promote. But it's, it's not something that we have to be concerned or afraid of. If we think the Governor is absolutely wrong on something, why certainly we can override. By and large, I think he will try to do the right thing for the people of Nebraska just as we, as a committee, have tried to do the right thing. So we'll have some legitimate areas of disagreement, I suppose. But I just want to support what Senator Wightman said. We have no particular agreement or blood oath of any sort that we are going to not support an override. I think we will all be voting our

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conscience. I think as a group though, we will be voting and supporting for the budget itself, and then see where we are as far as the Governor is concerned. One comment I would like to make with reference to a statement I think that Senator McGill made earlier today. She had received an e-mail from someone wondering what's happening in Nebraska? Where have they gone wrong? Why aren't they doing things for people? I was at a leadership, well, selection conference, I guess, in Chicago and talked with representatives and senators from 11 other states. You think we have some problems here, you should hear what they have to say. Indiana, for instance, is going to have to have a special session because they can't balance their budget and they haven't been able to get it through. We know where Michigan is. We know where California is and a number of other states. Why are they there? They're getting ERA funds... [LB315]

SENATOR CARLSON: One minute. [LB315]

SENATOR NELSON: ...just as we have, stimulus funds in proportion to the amount of budget and expenses that they have. They're there in my estimation because they tried to do too much, too fast for too many people. And they have spent way more than they could afford to. And I think we have to be mindful of the way we operate here in Nebraska with our budget. We balance our budget. We stay within our means in our spending and if it means that we can't do everything for everybody, so be it. We do the best we can in those areas that have priority and the most need. We don't want to dip into the reserve fund anymore. I think we've gone as far as we need to. That, I second what Senator Friend has, we need that for rainy days ahead because we're not sure where we're going to be in the out years. Thank you, Mr. President. Thank you, members of the body. [LB315]

SENATOR CARLSON: Thank you, Senator Nelson. Those still wishing to speak, Senators Avery, Wightman, Karpisek, Stuthman, and Cook. Senator Avery, you are recognized. [LB315]

SENATOR AVERY: Thank you, Mr. President and colleagues. I have not spoken previously on this issue but after having listened to the debate all morning and this afternoon, I think that perhaps I should. I voted for each amendment on the previous bills and I voted for each of the underlying bills and I intend to continue doing that on the remaining bills. And I will continue to support the committees amendments on the remaining bills. Why is that? Because I believe in this budget. Is it a perfect budget? No. Is it about as good as we can get? It might be. And I will tell you something else. I will commit here and now to vote to override any and all attempts to veto any portion of this budget. I will do that. And I would hope that others would do the same thing. Let me tell you why. I believe strongly in the committee process. The committee process is an important part of what we do in this body. It divides our labor. It allows us to specialize, to develop skills about issues, knowledge about issues that all of us cannot have. It helps us develop legislation in a rational manner. Since we cannot all be experts in all

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things in all areas of legislation, we need help from our colleagues who do specialize. And that's where the committee process is so important. And we have to be able to rely with confidence on our committees and the work they do. And I believe that the Appropriations Committee has done about as good a job as we could expect. I applaud their work. And there are obviously elements of every budget that we can all argue about, and there are elements of this budget I would liked to have seen done differently. I'd like to see more money for the university. I had two budget requests that did not get funded and one of them came out of the task force on base realignment and closure. I wanted a mere \$67,000 to study the feasibility of converting Pershing Armory to an Army National Guard facility to help us relieve some of our space problems. I think that's an important part. I'm not even going to offer an amendment to bring that in because I do not think that if we start trying to pick this budget apart piece by piece, that that will be in the long-term interests of this body and the state. I respect the work the committee has done. I will indeed vote to override the vetoes and stick with the committee. I hope that many of you would do the same thing, at least enough to override. With that, I will end and continue to listen to the debate. I hope that it doesn't go too much longer. Thank you, Mr. President. [LB315]

SENATOR CARLSON: Thank you, Senator Avery. Senator Wightman, you're recognized. [LB315]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. First, I do rise in support of the budget bill and the committee amendment. That should come as no surprise to anybody, I suppose. Were all of the elements of the budget my priorities? No. Actually I moved to amend very late in the game to include...but it was a consensus, finally. If all of us got our priorities and we had no concern over what the final budget bill was going to be, I can assure you that we would be using a whole lot more of our rainy day fund than we're going to use. The question is I suppose is, when is the rainy day going to end? I suspect nobody will be sending a dove over in order to tell us that the flood is over or that the rain is over. And so I think we have to use our own judgment that this economic crisis that we're in right now could certainly last more than the two years of the biennium. I think we have to be prepared for that. Certainly people addressed the body this morning saying that the last thing in the world we want to do is raise taxes. If we aren't responsible, we may very well be faced with that situation two years from now. If we increase the budget, and I haven't seen a lot of attempts to do that and I hope I don't, but if we don't check our spending, if we don't have a fiscally responsible budget, then I think we are facing that possibility and perhaps probability two years from now. So I agree with Senator Fulton when he says he feels this is a fiscally responsible budget. I think it is a fiscally responsible budget, and I'm not going to spend my entire time. I would just urge everyone to support the budget. We think it is the best consensus that we could come up with, with the Appropriations Committee. Certainly all nine members had some voice in forging the final document, probably some more than others. But I do think it is a fiscally responsible budget that I can

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support and will support. And generally speaking as I discussed with Senator White, I think the presumption is in favor of the legislative budget when it comes time for an override. I'm not saying that means that I wouldn't...that I would vote to override every item that the Governor line-item vetoes, but I will go in with that presumption. With that, I will close. Thank you, Mr. President. [LB315]

SENATOR CARLSON: Thank you, Senator Wightman and it's good to see you're still on your feet after walking the half-marathon. Senator Karpisek, you are recognized. [LB315]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I've had quite a few people ask me today, where are you at on this "Karpi"? We haven't heard anything out of you, I can't believe it. Well, I've tried to be quiet and I have been pretty well. Senator...it's nice, isn't it? Senator White got me a little bit stirred up and I do remember two years ago too and I understand, well, that was two years ago, let it go. Sorry, can't. I'm not going to let that go. But I am glad to hear that once again we hear the Appropriations Committee saying that this is a good budget. I agree. That's why I haven't said anything. There's parts of it, sure I'd like more money. I wish we had more money to work with. We don't. I understand that. I'm very appreciative of the money for the developmentally disabled. Again, are we...Senator Lathrop said, are we really gaining ground? Maybe not, but we're trying to hold, we're trying to hold even. Doing something about it for the first time in a long time. I'm very happy about that. So I plan to vote for, I have voted for all the bills. I think we all have. I plan to keep doing that. But let's face it, I think the Governor probably is going to have to do some vetoes. I don't know that we are going to have room in here. We had the meeting this morning. Senator Heidemann did a very good job of laying it out and showing us where we're at. I do think that there's going to be, there's going to have to be some give. And I'm just holding my breath to see where that's going to be. And I understand the committee members saying, well, it depends where it's at. I'm glad to hear that too. I think, as I've said before, the Appropriations Committee has worked long and hard on this. I thought they worked exceptionally hard two years ago and I think that they've probably worked harder this year. Every time a new forecast came out, it was never good news. They went back and worked. I will support them. I will support what they did as their work. I will also say that, well, maybe if a veto here or there doesn't affect me or my feelings or my district as much, maybe I won't say much. But if it does, I will be up. And I figure I've kept my mouth shut enough today that maybe I'll be able to rein in some of that time that I didn't take up today when that happens. But I do know that it's going to probably happen. We need to think about it as bills that we're moving forward through now are going to take up more money. Again, I wish we had more money. I don't know what we would have done without the stimulus. I don't want to get into that debate again. It would have been tough. I'm glad that it's there. I'm glad we're using it. I agree that it will maybe, probably come back to bite us some day, but I don't know what we would have done without it. So I think we're making good progress here. I think we've talked a lot

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about a lot of things. I hope that we can try to hold this thing together. We've done a lot of good things with not such good news. And I appreciate what the committee has done and what the whole body has done. So I ask all the senators, let's hang in there. If we're going to vote for something, stick to it. Stick to what we're trying to do and decide on how you vote on what you can stick with. [LB315]

SENATOR CARLSON: One minute. [LB315]

SENATOR KARPISEK: Thank you, Mr. President. [LB315]

SENATOR CARLSON: Thank you, Mr. Karpisek. Those still wishing to speak, Senators Stuthman, Cook, and Dubas. Senator Stuthman. [LB315]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I'll be short. I truly respect the work that the Appropriations Committee has done and I don't feel that I want to micromanage, you know, what they have done. I just truly think that, you know, they have worked long and hard on this. To tell you the truth, they worked ever since the session began and I respect that. There may be some tweaking that needs to be done, but I think the Governor will have the right to do that. But I truly respect what they have done and I'm going to support this. So with that, thank you, Mr. President. [LB315]

SENATOR CARLSON: Thank you, Senator Stuthman. Senator Cook, you are recognized. [LB315]

SENATOR COOK: Thank you, Mr. President and members of the body. I would like to yield my time to Senator White as I'm certain he's keeping track of which Appropriations Committee members have had the chance to weigh in and which ones have not. Just in the interest of equality and offering that opportunity to each of the members, I would like to yield my time to the Senator if he will take it. [LB315]

SENATOR CARLSON: Thank you, Senator Cook. Senator White, you have 4:30. [LB315]

SENATOR WHITE: Thank you so much, Senator Cook. Is Senator Nordquist available? [LB315]

SENATOR CARLSON: Senator Nordquist, will you yield? [LB315]

SENATOR NORDQUIST: Yeah. [LB315]

SENATOR WHITE: Senator Nordquist, is there anything in this budget that you find is so wasteful that you would support the Governor on a line-item veto? [LB315]

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SENATOR NORDQUIST: Outside of his National Governor's Association dues, probably not. So if he vetoed that, I might consider it. (Laughter) [LB315]

SENATOR WHITE: So if he vetoes his own National Governor dues... [LB315]

SENATOR NORDQUIST: Yeah, I might consider that. Outside of that, I think this budget is a good compromise. And as a senior member of the body once said, and I want to make sure this is not attributed to me, I'm quoting a senior member of the body, a budget's much like a wife, you might not like everything, but you just, you just go with it, so. (Laughter) [LB315]

SENATOR WHITE: That was the Chair of the Appropriations Committee as a matter of fact. Senator Heidemann said that last year as we went through a veto override fight. He said, I look at this budget like my wife. There's a lot of things I don't like in it. I often wondered how it was going home after that session. (Laughter) Now, Senator Fulton has made some comments about the stimulus package and the expense and it's a legitimate concern. It's very much a concern for many of us on what we're laying onto our children. But I would ask Senator Fulton if he'd yield and if he would address this question. [LB315]

SENATOR CARLSON: Senator Fulton, will you yield? [LB315]

SENATOR FULTON: Tentatively. [LB315]

SENATOR WHITE: Okay. Senator Fulton, have you done any studies or reviewed any studies of what the costs would have been in terms of national debt had the stimulus package not been passed because the economy clearly would not have responded as well if it had not been passed and that generates our taxes. Unfortunately, that debate has been one-sided. We look at what the stimulus package cost, but we don't necessarily address what it would have cost in dollars and cents had we not done it. Have you looked at that issue? [LB315]

SENATOR FULTON: Not by way of a study, as you, as you ask. But I did pay some attention to the stock market. And this was an interesting deal. I was out knocking on doors and while knocking on doors, I had people ask if I was in favor of this bailout for the banks. And folks, generally, I think we're...I caught them off guard when I knocked at the door but there was this idea that we were voting on this bank bailout, which I explained wasn't the case. But I took special note and I watched what happened to the stock market because that was one of the arguments that was given at the time. And the stockmarket did not fare well. So at least, conjecturally that...there's some evidence there but I do submit to you that what you say, could very well be proven true. [LB315]

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SENATOR WHITE: Yeah. Understand, the bank bailout was different than the stimulus package. Those are apples and oranges. The stimulus package was separate than the bank bailout, so. One of the things I'd urge everyone as they're listening and neighbors are legitimately talking about their concerns of the stimulus package and its cost, there are some people who would tell us that if we didn't stimulate it, it would have been devastating long-term, not just to the economy, but to the national deficit because our economy would have tanked even worse than it has, and we'd run longer term deficits for higher numbers. I think we were left in a tough position on that and I just...I don't know which is right, but there's two sides to that story. Would Senator Mello yield to a question? [LB315]

SENATOR CARLSON: Senator Mello, will you yield? [LB315]

SENATOR MELLO: Yes. [LB315]

SENATOR CARLSON: One minute. [LB315]

SENATOR WHITE: Senator Mello, is there anything in this budget that's so objectionable to you besides the Governor's travel arrangements that you would support a line-item veto of it? [LB315]

SENATOR MELLO: No, I would support an override veto on anything that he would veto. [LB315]

SENATOR WHITE: Thank you, Senator Mello. I'm trying to see if I missed anybody and if I did, oh, Senator Hansen. May the cowpuncher from the western reaches of the state, please yield? [LB315]

SENATOR CARLSON: Senator Hansen, would you yield? [LB315]

SENATOR HANSEN: Yes, I will. [LB315]

SENATOR CARLSON: Thirty seconds. [LB315]

SENATOR WHITE: Will you support line-item vetoes or no, Senator? [LB315]

SENATOR HANSEN: Was it yes or no? I thought we wanted... [LB315]

SENATOR WHITE: Is there anything in this budget that you find so offensive you will support the line-item veto of that? [LB315]

SENATOR HANSEN: I have some things in the back of my mind but they're mine and I've got to see them on a veto first. [LB315]

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SENATOR WHITE: Okay. Well, then the reason I...thank you, Senator Hansen. The reason I ask is this. Folks, I come to this different place than Senator Avery. This is presented to us as a debate of a package and you vote yes or no for the package. [LB315]

SENATOR CARLSON: Time. Thank you, Senator White, Nordquist, Fulton, Mello, and Hansen. Senator Dubas, you are recognized. [LB315]

SENATOR DUBAS: Thank you, Mr. President. I would yield my time to Senator White. [LB315]

SENATOR WHITE: Thank you, Senator Dubas. [LB315]

SENATOR CARLSON: Senator White, you have 4:50. [LB315]

SENATOR WHITE: Thank you, Mr. President. I come to it, not out of deference to the committee process, though I respect the process. I do not defer to it on the same level as my colleague, Senator Avery. I believe each of us won an election, each of us has an obligation to examine every bill that comes up here and devote our conscience on those bills, and that we cannot cede to a committee our obligation to our constituents and our obligations on our own vote. But what I put my faith in is the debate on the floor, is the collective wisdom of all here exchanging views, in learning from what was said, not just saying what we want to say but listening to what is said, that moves votes and moves compromises. And when the budget...and this is really important because it was really, truly a bitter lesson to me. I heard the budget being proposed two years ago as a compromise of competing interests and then when it was done and it was presented to the Governor, a lot of the consideration that made me want to support it, not fight it, not filibuster it, was stripped out. And then it was presented that now it's every man for himself. It's no longer a compromise later. So just understand what's happening here. If you vote for this budget the things that may motivate you may indeed be stripped out. And then you may be standing alone wondering why I ever supported it in the first place and why I didn't filibuster it. And that's okay. I mean, that is the system. The Governor is not only entitled, he's obligated under the constitution to look at those things. But understand it can leave you after the process is over, feeling that you made substantial compromises in good faith, and then had the consideration offered to you stripped away unfairly. And so it is important to evaluate where you stand, but also the committee stands on line-item vetoes. Because that which may be lost may be yours and you cannot effectively debate this without that in the back of your mind. And the recognition that as an independent body the Governor may veto our various appropriations, but in the end it comes back to us collectively. Now, I will actually support this budget. There are many things in it I don't like. I don't like money going out of state. I think it's wasteful and destructive to our economy. I've talked to you about that. I don't like that we don't

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have the money that we're now...paying out of General Funds to pay for Beatrice because of mismanagement. I don't like it. But I will support this budget because there are other things in it I do like. But I also recognize that I can't count on that going forward and neither can you. Thank you. [LB315]

SENATOR CARLSON: Thank you, Senator White. Senator Nantkes, you are recognized. [LB315]

SENATOR NANTKES: Thank you, Mr. President. I was wondering if Senator White would yield to a question. [LB315]

SENATOR CARLSON: Senator White, will you yield? [LB315]

SENATOR WHITE: Absolutely. [LB315]

SENATOR NANTKES: Senator White, we got cut off a little bit earlier in terms of time constraints and so in order to ensure that the record was complete, I wanted to just make clear in what got left off in our previous dialog that like you, like Senator Avery, like every other member of the committee which has talked today, I support the budget as a whole and plan to regardless of what the Governor chooses to do and utilize with his veto power, which as Senator Nelson appropriately elucidated for us, is part of our constitutional separation in powers and the checks and balances that we operate within. So of course, that's his right to do so but we worked for five months on this budget and goodness knows, there's a lot of pieces in here which are definitely not in line with what my policy priorities are, but I gave my word to my committee and that's important how we operate in this body. And I think when we look at individual amendments and we look at veto overrides, we have to vote our conscience for our district and for our state and that's what I plan to do. So I just wanted to clear that for the record. [LB315]

SENATOR WHITE: Thank you, Senator Nantkes. And I would like to point out, I mean it's a collision not just of different parts of the government but of different styles. Here we have debate, consultation, compromise, and we collectively move a decision. The Governor debates with no one but himself. The Governor compromises with no one but his own conscience. So the way we come to decisions is both more powerful and yet more vulnerable. And that's why understanding what you're supporting, and understanding in my case that there are many things in this I really don't like. But I will support it as a combined balance object and I, too, will, probably very much, look strongly at trying to override any line-item veto even if it's something that's not really affecting my district because this is a compromise and a result of consultation and compromise. [LB315]

SENATOR NANTKES: Thank you, Senator White. Mr. President, how much time do I have remaining? [LB315]

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SENATOR CARLSON: Two, thirty. [LB315]

SENATOR NANTKES: Okay, great. Thank you. I think that the one point that I wanted to wrap up my commentary with was in regards to the stimulus and how that federal legislation has significantly and positively benefited Nebraska's bottom line. Not only have a majority of Nebraska taxpayers seen tax relief because of the stimulus efforts, but we've also been able to ward off deep, deep cuts in critical human services and education in this state, and forego what other states are having to face which is significant tax increases. So I've said it many, many times on this floor and in our committee, I'm grateful to Senator Ben Nelson for his leadership in that regard and to the Obama administration. And there's been a lot of talk about whether or not philosophically we should accept that money and what the long-term ramifications may be or may not be, but I think one thing that's critical to point out is that our Governor has to his credit, accepted every single dime of that federal, that federal money. But for the increases Nebraska could have seen in relation to unemployment insurance and that's one piece that unfortunately, we haven't seen any leadership on out of the Governor's Office and has significant impacts for working families who are facing the brunts of these difficult economic conditions and but for that money, the Governor has accepted every other piece of the federal stimulus and... [LB315]

SENATOR CARLSON: One minute. [LB315]

SENATOR NANTKES: ...I support him in that effort. I was hoping to maybe have some dialog about that piece during the course of the budget or related bills because it's my understanding that that's something that the business community and the labor community are interested in seeing. And folks, if we're not going to be aggressive in utilizing those federal funds, our friends and neighbors and colleagues in other states certainly will aggressively fight for a return of their taxpayer dollars within the borders of their state. And I see no reason why Nebraska shouldn't be aggressive in trying to get back our tax dollars that we send to D.C. here into our state and to help our bottom line and to help working families in our districts and across the state. So with that, I just wanted to conclude in terms of a philosophical view on the stimulus and how it impacts our budget and how it impacts our future. Thank you, Mr. President. [LB315]

SENATOR CARLSON: Thank you, Senator Nantkes. Your light is on, you...your light is not on. You waive your time. Seeing no other lights, Senator Heidemann, you are recognized to close on AM889 to LB315. [LB315]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I think it's been a good afternoon. We've had a lot of debate, we've had talk, we've had questions, and I think people are kind of feeling their way, not only through the budget, but what other people are thinking and about how they act. I think it's very important that

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we have debate on the budget. I wouldn't want to see this thing go in a half hour. I don't believe that would even be good for the Appropriations Committee. It might make my job a little bit easier but that's not the reason that I'm here. I think it's very important that you get as much information on the budget as you possibly can because that's not only good for you, it's good for the process. Sometimes the budget can be a little bit overwhelming. There's no doubt about that. We are the only committee that deals in one subject matter and that's appropriations and that's all that we do. And when you do it five days a week, it becomes your life. So we understand this fairly well to a point, so when we get to the floor I think it's important that we do have some discussion on it so that we get the body as a whole a little bit of understanding of what we do, and how we got to the point of where we're at as far as putting things in the budget, and why we think it's important, so. I appreciate the debate and I also would appreciate a vote of support in AM889 to LB315. Thank you. [LB315]

SENATOR CARLSON: Thank you, Senator Heidemann. You've heard the closing on the committee amendment. The question is, shall committee AM889 to LB315 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB315]

CLERK: 46 ayes, 0 nays, Mr. President. [LB315]

SENATOR CARLSON: The amendment is adopted. We return to discussion on LB315. Seeing no lights, Senator Heidemann, you're recognized to close. [LB315]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I appreciate your show of support in voting the amendment to LB315. That now becomes the main-line budget bill and I urge your support of LB315. Thank you. [LB315]

SENATOR CARLSON: Thank you, Senator Heidemann. You've heard the closing on LB315. The question is, shall LB315 be advanced? All those in favor vote aye; all opposed vote nay. Has everyone voted who wishes to vote? Record, Mr. Clerk. [LB315]

CLERK: 45 ayes, 1 nay, on the advancement of LB315. [LB315]

SENATOR CARLSON: LB315 advances. Next item, Mr. Clerk. [LB315]

CLERK: LB316, a bill by Speaker Flood at the request of the Governor. (Read title.) Introduced on January 15, referred to Appropriations, advanced to General File. There are committee amendments, Mr. President. [LB316]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Heidemann, you're recognized to open on LB316. [LB316]

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SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. There is a committee amendment. I will address that at that time. [LB316]

SENATOR CARLSON: Mr. Clerk. [LB316]

CLERK: Committee amendments, AM890. (AM890, Legislative Journal page 1252.) [LB316]

SENATOR CARLSON: Senator Heidemann, you're recognized to open on committee amendments. [LB316]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. This is what we call the funds transfer bill. There's various transfers between different funds, some of them being General Funds to cash funds, some of them being cash funds to other cash funds. There's quite a mix in the whole group of them. I urge you to support AM890 to LB316, the funds transfer bill. [LB316]

SENATOR CARLSON: Thank you, Senator Heidemann. The floor is open for debate. Senator Pirsch, you're recognized. Senator Pirsch, is not on the floor. There are no other lights. Senator Heidemann, you're recognized to close. [LB316]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. This bill does contain various transfers, as I said, from the General Fund into other funds. I urge your support of AM890 to LB316. [LB316]

SENATOR CARLSON: You've heard the closing on the amendment. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB316]

CLERK: 37 ayes, 0 nays. [LB316]

SENATOR CARLSON: The amendment is adopted. We return to discussion on LB316. Seeing no lights, Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question is, shall LB316 be adopted? All those in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB316]

CLERK: 41 ayes, 0 nays, Mr. President. [LB316]

PRESIDENT CARLSON: Thank you. LB316 advances. Next item, Mr. Clerk. [LB316]

CLERK: LB318 introduced by Speaker Flood at the request of the Governor. (Title read.) Introduced on January 15, referred to Appropriations, advanced to General File. At this time I have no amendments to the bill. [LB318]

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SENATOR CARLSON: Thank you, Mr. Clerk. Senator Heidemann, you're recognized to open on LB318. [LB318]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. LB318 would suspend certain depreciation charges assessed by the Department of Administrative Services. LB1100 was enacted in 1998 and what that did was put a depreciation surcharge on all capital improvement projects, and that money flowed back through. And they'll use LB1100 funds for renovation projects and, well...for repairing roofs and things like this. Because of our tight budget circumstances that we're in, it is the...LB318 would suspend those for a couple of years, so that cost will not be there. I urge you to vote in favor of LB318. [LB318]

SENATOR CARLSON: Thank you, Senator Heidemann. You've heard the opening on LB318. The floor is open for debate. Seeing no lights, Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question is, shall LB318 be advanced? All those in favor vote aye; those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB318]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB318. [LB318]

SENATOR CARLSON: Thank you, Mr. Clerk. LB318 does advance. I recognize Speaker Flood for an announcement. [LB318]

SPEAKER FLOOD: Thank you, Mr. President. Good evening, members. Thank you for all the work that's been done today. We have taken on aggressive work and we have done a good job. It is my intention to adjourn for the day after LB628 is considered and resolved by the Legislature later this evening. Again, it is my intention to adjourn after LB628, a Business and Labor Committee bill. Thank you, Mr. President. []

SENATOR CARLSON: Thank you, Speaker Flood. Mr. Clerk, next item. []

CLERK: LB456 introduced by Senator Heidemann. (Read title.) Introduced on January 20, referred to the Appropriations Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM1214, Legislative Journal page 1253.) [LB456]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Heidemann, you're recognized to open on LB456. [LB456]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I will open on the amendment when it comes up, if that would be all right. [LB456]

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SENATOR CARLSON: Thank you, Senator Heidemann. You are recognized to open on AM1214. [LB456]

SENATOR HEIDEMANN: Okay. Thank you, Mr. President and fellow members of the body. This is the Cash Reserve transfer bill. We had discussion earlier on, that there was two things that allowed us to do the things that we was able to do this year as far as fund things to the level that we was. And one of them was the ARRA funds that we got from the federal government. It was a huge portion of it. The other part was the amount of money that we're going to get from the Cash Reserve. And I'm going to take the opportunity once again, as I did this morning in my budget briefing, to thank and to applaud the members of the Legislature over the last four years. We was able to, what I call act responsibly and keep enough money in the Cash Reserve, so that we had our down times that we was able to start pull that money out and to continue to fund things as we thought was responsible. We was able to accomplish that, keep that money in the Cash Reserve, and now we are going to start pulling that money out and to help us to fund things. This amendment will transfer \$95 million out of the Cash Reserve to the General Fund on June 15, 2010. It will transfer \$151 million from the Cash Reserve to the General Fund on June 15, 2011. There's also a transfer of \$7.5 million to the Cash Reserve Fund for the Governor's Emergency Fund on June 15, 2009. There is a transfer also of \$1 million to the State Visitors Promotion Cash Fund and it adds the emergency clause. I urge your support of AM1214 to LB456. [LB456]

SENATOR CARLSON: Thank you, Senator Heidemann. You've heard the opening on AM1214. The floor is open for discussion. Seeing no lights, Senator Heidemann, you're recognized to close. [LB456]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I urge your support of AM1214 to LB456. [LB456]

SENATOR CARLSON: Thank you, Senator Heidemann. You've heard the closing on the committee amendment. The question is, shall the committee amendment to LB456, AM1214 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB456]

CLERK: 28 ayes, 0 nays, on adoption of committee amendments. [LB456]

SENATOR CARLSON: The amendment is adopted. We return to discussion on the floor for LB456. Seeing no lights, Senator Heidemann is recognized to close, and he waives closing. The question is, shall LB456 be advanced? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB456]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB456]

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SENATOR CARLSON: Thank you, Mr. Clerk. LB456 does advance. Next item. [LB456]

CLERK: LB414 is a bill by Senator Ashford. (Read title.) Introduced on January 16, referred to Judiciary, advanced to General File. There are Judiciary Committee amendments. (AM812, Legislative Journal page 806.) [LB414]

PRESIDENT LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Ashford, you're recognized to open on LB414. [LB414]

SENATOR ASHFORD: Thank you, Mr. President. With the passage of the main-line appropriations bill we put salaries...or we advanced the existing salaries for the judges across the state based on the Supreme Court as the standard salary, and then the other judges work from there. So with the passage of the main-line bill, the existing salaries, I believe I'm correct here, were plugged into the main-line bill. What this does simply is increase the salaries of the Supreme Court and again filtering down through all of the judges in the state by 2.5 percent in the first year of the biennium, and 2.5 percent in the second year of the biennium. The committee elected to adopt an increase in LB414 somewhat less than the salaries for employees generally in the state. The feeling was that that was a prudent approach to take with the judges, albeit our feeling that they do an excellent job. They're dealing with a greater caseload across the state, no question about that. The judges at every level, county court, juvenile court, district court, court of appeals, Supreme Court, and throughout the system, are...have increases every year. Nebraska is a state that does not allow for increases in judges' salaries other than that given directly by this body every biennium. We have the authority to increase judges' salaries, keep them same, decrease them, whatever. That is our responsibility, it's our authority. I do want to...there's going to be an amendment to LB414 by the Retirement Committee. And I want to thank Senator Pankonin and his team, his staff, for the excellent work they have done on this issue. Like the case of the teacher salaries, Senator Pankonin and the entire committee, Rules... or, I'm sorry, the Retirement Committee have worked diligently to deal with the very, very difficult issue of how do you adequately fund retirement. And the work that he did on the judges' retirement really triggered our ability to do what we're suggesting we do in LB414. But with that, Mr. President, I urge the body to advance LB414 with the 2.5, 2.5 increases for the judges. [LB414]

SENATOR LANGEMEIER: Thank you, Senator Ashford. As the Clerk had stated, there are committee amendments offered from the Judiciary Committee. Senator Ashford, as Chair of the committee, you're recognized to open on the committee amendments. [LB414]

SENATOR ASHFORD: Thank you, Mr. President. I did sort of leap to the committee

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amendments but what I just related, the 2.5 percent increase in the first year of the biennium and the 2.5 percent increase in the second year of the biennium. Again, the Legislature's purgative is to increase the judges' salaries in this state and with that, I would urge the adoption of AM812 and the advancement of LB414. [LB414]

SENATOR LANGEMEIER: Thank you, Senator Ashford. You have heard the opening on AM812, the committee amendment offered to LB414. The floor is now open for discussion. Seeing no lights on, Senator Ashford, you're recognized to close on AM812. [LB414]

SENATOR ASHFORD: I would waive closing. Thank you, Mr. President. [LB414]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Ashford has waived closing. The question for the body is, shall AM812 be adopted to LB414? All those in favor vote yea; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB414]

CLERK: 29 ayes, 0 nays, on adoption of committee amendments. [LB414]

SENATOR LANGEMEIER: AM812 is adopted. Mr. Clerk. [LB414]

CLERK: Senator Pankonin would move to amend AM1236. (AM1236, Legislative Journal page 1226.) [LB414]

SENATOR LANGEMEIER: Senator Pankonin, you're recognized to open on AM1236. [LB414]

SENATOR PANKONIN: Thank you, Mr. President and members of the body. First, I would like to thank Senator Ashford for allowing the Retirement Committee to use his bill on judges' salaries as a vehicle to address the shortfall in judges' retirement. I would also like to thank Speaker Flood for working with us and scheduling LB414 in the budget sequence. Finally, I would like to thank Chief Justice Heavican for his leadership in working with the judges throughout the state and the committee in putting together a compromise proposal. AM1236 includes three provisions. It increases each judge's employee contribution rate 1 percent beginning July 1, 2009, until July 1, 2014. Number two, it increases the current \$5 filing fee to \$6 beginning July 1, 2009, until July 1, 2014. This filing fee is dedicated totally to funding the judge's retirement system and essentially serves as the employer contribution to the retirement fund. And number three, this amendment includes a reverse severability clause. This means that if any provision in LB414 is struck down by the court as unconstitutional then the entire bill will be invalid. So, for example, if the contribution rate increase is challenged and found to be unconstitutional then there would be no increase in the filing fee nor would the judges receive the 2.5 percent salary increase in July 2009 or July 2010. I have

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distributed a chart which shows the revenue which would be generated by the filing fee and contribution increases and a document which breaks out the contribution rates paid by judges currently contributing to the Judges Retirement System. I would be glad to respond to any questions and appreciate your support of AM1236. Thank you. [LB414]

SENATOR LANGEMEIER: Thank you, Senator Pankonin. You have heard the opening on AM1236 offered by LB414. The floor is now open for discussion. Those wishing to speak, we have Senator Carlson, Rogert, Fischer, and Wallman. Senator Carlson, you're recognized. [LB414]

SENATOR CARLSON: Mr. President and members of the Legislature, I do rise in support of AM1236. But I would like to address a question to Senator Ashford if he would yield. [LB414]

SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB414]

SENATOR ASHFORD: Yes. [LB414]

SENATOR CARLSON: Senator Ashford, LB414 is...strictly pertains to judges salaries, is this correct? [LB414]

SENATOR ASHFORD: Yes, not other personnel. [LB414]

SENATOR CARLSON: So personnel, the county clerks and staff and so forth, they're not a part of this bill at all. [LB414]

SENATOR ASHFORD: That's correct, that's correct. They're covered in the main-line budget bill, I believe. [LB414]

SENATOR CARLSON: Now in the main-line budget bill as that money is allocated who makes decisions on how that money is spent? [LB414]

SENATOR ASHFORD: That's the General Fund dollars that are in the main-line are initially determined by the Appropriations Committee and then at the end by us. So the Appropriations Committee has put in a certain salary increase into the main-line budget for those personnel, those jobs. And I'm not sure whether...I believe they're covered by the same general increase that other state employees are getting. [LB414]

SENATOR CARLSON: Okay, thank you. I think that in the last several years we get down to the level of county clerks and staff members. They seem to be on the short end of the stick when it comes to salary increases. And I'm not opposed to LB414 but I am concerned about salaries of those that are staff members and so forth and think that that's an area that we need to be concerned about and direct some attention to. Thank

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you, Mr. President. [LB414]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Rogert, you're recognized. [LB414]

SENATOR ROBERT: Thank you, Mr. President. Good evening, members. It's 6:08, I guess we can call it evening. I'm...I've stood up a couple times before and I think all the members of the Judiciary Committee know where I stand on fee increases. I yell at the top of my lungs whenever I walk into any Exec Session, no more fees. But I gave in on this one. This is something you guys got to think about. One thing you really ought to...all the amendments being passed to the budget, this one here is...the retirement fund will be refilled by people who break the law. So that's kind of ironic in a sense with this dollar fee increase. The...really the only thing that got me to vote this out of committee was the fact that the judges did come forward and say they would contribute another percent and I appreciate that. And hopefully that sticks. If it doesn't I imagine we're going to be readdressing this issue quickly in the next session. There is a...this retirement program is different than the rest in that there is no employer contribution for the judges like there is for the State Patrol and the schools. So the only thing that goes into that fund is either General Funds, if we put some in there, or judge contribution. The state doesn't put any money in. If you've got a 401K in the job that you work or you're a teacher or you work for the State Patrol you put in a certain percentage and usually get a match from your employer or the state in statute does match the...it puts in a certain amount on the others. They don't do that for judges. But the judges have a pretty good deal going too. This is a pretty darn good retirement program. So I know there's going to be some people asking questions about why do you want to put a dollar onto a court fee to pay for judges retirement. We all understand that the market went to heck and we lost a bunch of money in our cash...in our savings account. But I'm glad the judges came with this 1 percent. And I think...will Senator Pankonin yield to a question, please. [LB414]

SENATOR LANGEMEIER: Senator Pankonin, would you yield? [LB414]

SENATOR PANKONIN: Yes, I would. [LB414]

SENATOR ROBERT: I was just...I only got partially through there. What's the sunset on this dollar? [LB414]

SENATOR PANKONIN: Five years, 2014. [LB414]

SENATOR ROBERT: Great. That was another thing that I was really kind of concerned about, if we're just going to throw this dollar on there forever and we're going to reevaluate this in five years and hopefully will be raised out of our hole we've dug ourselves into and we can take this dollar and make it go away. Hopefully, we'll do that

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and not just change it into some other dollar and we'll use it for something we want to raise. But, Senator Pankonin, will the 1 percent contribution rate also go back down in that five years? [LB414]

SENATOR PANKONIN: Yes, it also has a sunset of July 1, 2014. [LB414]

SENATOR ROBERT: Okay, great. Thank you. And that is helpful that we're going to come back and review this again and see what kind of a position we're in. But I think there's going to be a few questions asked this evening about this particular amendment. Thank you, Senator Pankonin. Thank you, Mr. President. [LB414]

SENATOR LANGEMEIER: Thank you, Senator Robert. Senator Fischer, you're recognized. [LB414]

SENATOR FISCHER: Thank you, Mr. President and members. I, too, have some concerns on this. Earlier this session we had a bill out of Natural Resources Committee that would have increased the fees at our state parks. And that was blasted away in here. We couldn't see a fee increase at our state parks to help with the upkeep and then the Game and Parks Commission had to make the decision to close some of those areas or not maintain them. But yet we're talking about a fee here. I think all the members need to be aware of that because of the discussions we've had previously during the session on fees. And earlier during our budget debate we heard from a number of members that we needed to be consistent. If I'm wrong on this somehow, I hope a member will explain in greater detail on this fee increase. Also the budget bill that we just passed, if you look on page 107 in your Budget Book, you will see that the salary increase for the county court employees is at .5 percent. I had my county court employees meet with me this summer from my 13 counties. And for the most part these are people who are not well paid. But yet in the budget we've increased their pay .5 percent. I have county court employees where they are the only employee in the office and they may serve one county, they may serve two counties, they may serve four counties. When they go on vacation work piles up, attorneys are not happy because they can't get things filed. But yet there is nobody there to answer the phone because the court system cannot afford to have another employee. And yet we just gave a .5 to those county court employees. With the Judges Retirement System I have some questions on that and I was wondering, Mr. President, if Senator Pankonin would yield to questions. [LB414]

SPEAKER LANGEMEIER: Senator Pankonin, would you yield? [LB414]

SENATOR PANKONIN: Yes, I would. [LB414]

SENATOR FISCHER: Thank you, Senator. I realize the situation we're in and I do appreciate all your work on this and the work of your committee in trying to figure out

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what to do, especially in light of the lawsuits that we have seen in the market with not just this retirement system but the others that were mentioned previously. But with this system judges before, as I'm reading this judges who served prior to 1969 make no contribution. Is that correct? [LB414]

SENATOR PANKONIN: That is correct. [LB414]

SENATOR FISCHER: Now what would be the average...my understanding is also that judges receive 100 percent...when they do retire they receive 100 percent of their...is it their last salary, their high salary, how does that work? Am I off on that? [LB414]

SENATOR PANKONIN: No, it's not 100 percent, Senator. I'd have to get the exact figures. I don't know that it will happen tonight, but it is not 100 percent. [LB414]

SENATOR FISCHER: Okay. Is... [LB414]

SENATOR PANKONIN: Senator Ashford says it's around 70 percent. [LB414]

SENATOR FISCHER: Okay. Senator Ashford...Mr. President, would Senator Ashford yield to a question. [LB414]

SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB414]

SENATOR FISCHER: Senator Ashford, do you know how... [LB414]

SENATOR ASHFORD: Seventy. [LB414]

SENATOR FISCHER: ...that works? Is it their last salary? Is it their highest salary? How much do they receive? [LB414]

SENATOR ASHFORD: I believe it's 70 percent, Senator Fischer. And I will check it out. [LB414]

SENATOR FISCHER: And the most that a judge contributes right now for their rate would be 82 judges are contributing 8 percent of their salary right now, is that correct? [LB414]

SENATOR ASHFORD: Seven, I thought it was...it's...is it eight? [LB414]

SENATOR FISCHER: On the handout it says 8 percent. [LB414]

SENATOR ASHFORD: Six and eight, I think. [LB414]

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SENATOR FISCHER: And with 52 judges... [LB414]

SENATOR ASHFORD: Oh, I'm sorry, 6 and 8, 6 for single, and 8 for...if they're married. So I think that's... [LB414]

SENATOR FISCHER: Okay. Okay. Well, I have concerns here and it's not that I'm not aware of the problems that this fund has faced. [LB414]

SENATOR LANGEMEIER: Time. [LB414]

SENATOR FISCHER: But I think there are questions. Thank you, Mr. President. [LB414]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Those still wishing to speak, we have Senator Wallman, Campbell, Karpisek, Nelson, and others. Senator Wallman, you're recognized. [LB414]

SENATOR WALLMAN: Thank you, Mr. President. And thank you, Senator Fischer, for your comments. And would Senator White yield to questions? [LB414]

SENATOR LANGEMEIER: Senator White, would yield? [LB414]

SENATOR WHITE: Yes. [LB414]

SENATOR WALLMAN: Most of these fees would you say they're charged to the lower income people? [LB414]

SENATOR WHITE: Well, not necessarily, certainly the criminal fees are. But a lot of the litigation actually is going to be paid by everybody from corporations on. The fastest growing aspect of litigation is corporate against...business against business litigation. [LB414]

SENATOR WALLMAN: What about repossessing things, like that, does that go to the court too? [LB414]

SENATOR WHITE: Unfortunately, we've been talking about that, yes, court costs and they get charged, you know, not only increased costs but then if Senator Lautenbaugh's bill advances it would be attorneys fees and other things that I don't agree with. [LB414]

SENATOR WALLMAN: Thank you, Senator White. And I guess this concerns me some. Here we're...these are definitely not the people at the low end of the salary. And then like Senator Fischer said, their raise probably won't even cover the cost of the health insurance raise. So what are we doing here with the percentages, with the court fees.

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Basically, my opinion is we're dropping it on the lower echelon of society. Is it right? I think most people know how a few members of this issue voted last time in here and I'll have a hard time voting green on this because it's not fair. And that's all I'll say. Thank you, Mr. President. [LB414]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Campbell, you're recognized. [LB414]

SENATOR CAMPBELL: Thank you, Mr. President. Would Senator Pankonin yield to some questions. [LB414]

SENATOR LANGEMEIER: Senator Pankonin, would you yield? [LB414]

SENATOR PANKONIN: I certainly would to Senator Campbell. [LB414]

SENATOR CAMPBELL: Thank you. Do you know when the last time the fee was raised, this particular fee? And perhaps I should have asked Senator Ashford but... [LB414]

SENATOR PANKONIN: Our committee counsel says 2002, Senator Campbell. [LB414]

SENATOR CAMPBELL: So it's been some time since we've gone to this particular fee... [LB414]

SENATOR PANKONIN: It has, right. [LB414]

SENATOR CAMPBELL: ...for funding. Which does make a difference, I think, as the body looks at using fees, how often we go to a particular fee. The second question that I have is in light of the chart that you distributed to all the senators, is the percentage of contribution that we're going to ask of the judges, is that pretty much in line with other state employees, with other classifications or is this somewhat unusual? [LB414]

SENATOR PANKONIN: Well, Senator Campbell, if you notice on the one chart there's been different plans for the judges over the years. But I would say at the high end, the 8 percent that will go to 9 percent is definitely higher than what teachers and considering that the State Patrol doesn't have Social Security, I think it would actually be one of the higher percentages. One of the things that we have to remember on this fee increase is if we don't get it from the fee increase, it's going to come as an employer contribution out of the General... [LB414]

SENATOR CAMPBELL: Right. [LB414]

SENATOR PANKONIN: ...out of the General Fund. And we have this issue with all three

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of our plans. We have unprecedented market loss, the market has started to recover, we can hope that continues. But we have to do...we need to do something to try to make up the shortfall. We were...we had these negotiations, had the judges come forward. Thanks to Senator Rogert and others it was the kind of deal that we're not going to raise a fee without you coming to the table and raising your contributions. And so that's the employee-employer relationship that we have with other plans. [LB414]

SENATOR CAMPBELL: Thank you, Senator Pankonin. I really appreciate the effort that has gone into try to resolve issues from the Retirement Committee. And I do support the amendment from the Retirement Committee. I think we have to refurbish these funds. And it's much better that we look at an increase in a fee that's not been increased in awhile rather than at the General Fund. So thank you. [LB414]

SENATOR LANGEMEIER: Thank you, Senator Campbell. Senator Karpisek, you're recognized. [LB414]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I, too, want to thank Senator Pankonin for working us through this. You may remember, I wasn't overly enthusiastic about having the judges not come to the table. I'm glad they did come to the table and put another dollar in. As Senator Rogert said, they do have a very good retirement plan. I would say that it may be the Cadillac of retirement plans. I also, after I voiced my opinion, got an e-mail from a judge back home telling me that I didn't know...didn't understand, didn't know this, didn't know that. I do know what we said would happen last year, that they would come back to the table. And it took a little bit of pressing maybe to get them back to the table. And it may have even taken a letter or two that was dug up to make them remember what they said they would do. I will vote for this because they have come to the table. And we do need to do something with the retirement; we need to get that plan back together. I don't know about raising the fees a dollar, it's what we did. The other part about the e-mail from my judge said that constitutionally they didn't have to put anything in. Very true. Also reminded me that the last time they went to trial they won. Seems like they would to me, the judges are who's arbitrating this, who's the judge. But I also reminded him if they want to go that way, I also know how to change the constitution. And I don't know in this economic time that it would be all that much of a stretch to think about moving a constitutional amendment out of this body and having the citizens vote on it. I think when you have a good deal sometimes you better just give a little bit. And they did and I appreciate that. But as long as I am here and on the Retirement Committee I will make sure that they come up and play ball with us. We're trying. Senator Pankonin has worked on all three systems very hard and done a great job. I'm very impressed. The first year for him to be on the committee and he's done a good job. And I know it hasn't been easy. But I do think that everyone needs to realize that...why we're in this situation, it's the economy, it's the markets, it's not anything why we...where we invested or didn't invest. And I think everyone needs to come to the table. And in my opinion, the school teachers did without

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blinking, the State Patrolmen did, but the judges did blink. And I just want to say that I do know that, I remember that. I will vote for this because that's the deal that was made. But I hope that everyone else remembers the deal that we're going on too. Thank you, Mr. President. [LB414]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Those still wishing to speak, we have Senator Nelson, Pankonin, White, Fischer, Ashford, Council, and others. Senator Nelson, you're recognized. [LB414]

SENATOR NELSON: Thank you, Mr. President, members of the body. First, would Senator Ashford yield to a question, please. [LB414]

SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB414]

SENATOR ASHFORD: Yes. [LB414]

SENATOR NELSON: I think you're pretty familiar with the judges compensation. When were the judges salaries last raised, if you know? [LB414]

SENATOR ASHFORD: We did it in the... [LB414]

SENATOR NELSON: I'm sorry? [LB414]

SENATOR ASHFORD: We did it in our first...two years ago. [LB414]

SENATOR NELSON: Two years ago. [LB414]

SENATOR ASHFORD: Right. [LB414]

SENATOR NELSON: All right. So have they gotten raises every two years so far as you know? [LB414]

SENATOR ASHFORD: No, I wouldn't say every two years. They didn't in the, I don't believe, in the 2001-2002, 2003...I'd have to look back in history but certainly as long as we've been here, Senator Nelson, you and I in the last couple of years they did get a raise. [LB414]

SENATOR NELSON: All right. Do you know what the raise was two years ago, Senator? [LB414]

SENATOR ASHFORD: You know, I...3 percent...I...let me...I'll check. Yeah, over the two years, so it's 2 point...I think 2.6 or whatever. [LB414]

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SENATOR NELSON: All right. Well, I would echo what Senator...thank you, thank you, Senator Fischer. These are pretty substantial raises. And we've been trying to look out for the court employees as well and all they got was a 1.5 percent, which there is an element of fairness. They work as hard, I think, as the judges do. Would Senator Pankonin answer a question? [LB414]

SENATOR LANGEMEIER: Senator Pankonin, would you yield? [LB414]

SENATOR PANKONIN: Yes, I would. [LB414]

SENATOR NELSON: I'm looking at your charts here which are kind of round dollar numbers, Senator. In the one chart showing the current judges contributions, there's no contribution at zero there, but 4 percent, 6 percent, and 8 percent, now those have all been raised to 5 percent, 7, and 9? Would that be correct? [LB414]

SENATOR PANKONIN: If we pass this amendment. [LB414]

SENATOR NELSON: If we pass this amendment. [LB414]

SENATOR PANKONIN: Yes, that would be true. [LB414]

SENATOR NELSON: All right. [LB414]

SENATOR PANKONIN: And the zero goes to one. (Inaudible.) [LB414]

SENATOR NELSON: Yep. The zero does go to one. All right. And looking at your other chart then that will bring in...those additional contributions will bring in \$200,000 a year, is that correct? [LB414]

SENATOR PANKONIN: Yes. [LB414]

SENATOR NELSON: From the judges and then if we pass the increase in fees...so a total of \$3 million each year will bring us \$15 million. Where will that put the pension fund, if you know those figures. [LB414]

SENATOR PANKONIN: I do, Senator. But I want to tell you that it's \$3 million over those, if you look, that would be \$600,000 a year if you add \$200,000, \$400,000, that's \$600,000 times five, \$3 million. [LB414]

SENATOR NELSON: Yeah, I... [LB414]

SENATOR PANKONIN: Not \$3 million a year. [LB414]

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SENATOR NELSON: Oh. [LB414]

SENATOR PANKONIN: You said \$3 million a year. It's \$200,000 a year. [LB414]

SENATOR NELSON: Oh, okay. All right, I misspoke. [LB414]

SENATOR PANKONIN: It's \$3 million total. [LB414]

SENATOR NELSON: That's right, that's...so over that period of five years we're contributing one way or another, getting \$3 million into the fund. Now where does that place the...where is the fund right now? [LB414]

SENATOR PANKONIN: Well,... [LB414]

SENATOR NELSON: What's the shortfall? [LB414]

SENATOR PANKONIN: Yeah. What would happen, it depends on the market return. And if we have a good strong market return this should bring us in balance. Obviously, if the market doesn't recover as quickly as we hope it could still be a shortfall that would have to be addressed in future years. So that's probably dependent mainly on market returns going forward. [LB414]

SENATOR NELSON: So this contribution of \$3 million plus a return in the market anticipated will get us back where we need to be with the fund in the space of five years. Is that... [LB414]

SENATOR PANKONIN: It has the potential to do so. But with like all the other plans it's contingent on market returns mainly. [LB414]

SENATOR NELSON: What happens if...we've already seen an increase in the stockmarket 200 points yesterday, I think. And suppose all of a sudden it gets back up to... [LB414]

SENATOR LANGEMEIER: One minute. [LB414]

SENATOR NELSON: ...\$1,100 or \$1,200, well, that's...I mean we're at the \$8,000 rather than up to the \$1,100 or \$1,200 in a couple of years. And our return from the stockmarket is substantially more than you estimate, then where are we with these increases here or these contributions? [LB414]

SENATOR PANKONIN: Senator, I think at that time if that would happen and hopefully actually would be true, then we could look at the sunset going away quicker. I mean we can always look at these both ways. [LB414]

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SENATOR NELSON: All right. And it would be possible for us to decrease the fees and leave the contribution alone? [LB414]

SENATOR PANKONIN: Potentially. [LB414]

SENATOR NELSON: All right. Thank you, Senator Pankonin. Thank you, Mr. President. [LB414]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Senator Pankonin, you're recognized. [LB414]

SENATOR PANKONIN: Mr. President, I just want to say obviously the discussion this evening has been important and it probably shows that this situation with the judges and actually all three plans have been interesting negotiations as we try to get people to come together to make headway on these plans. This one in particular took the assistance of many people. I know Senator White is going to speak and it goes back to some of the discussions he had on the floor last year. And then we took the advice of folks like Senator Rogert and Senator Karpisek that if we were going to look at a fee increase that the judges needed to come and participate in this plan. So this has been a multifaceted negotiation. I appreciate the help of many folks. Senator Flood was with me when we met with the judges. Senator Ashford has been helpful. So I'm just very thankful to everyone. I know these retirement issues are somewhat complex, yet I think as has been stated we had unprecedented losses that need to be rectified with positive movement. And hopefully with the market starting on an upward trend that will continue and these will be behind us. That is the hope. Thank you. [LB414]

SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Thank you, Senator Pankonin. Senator White, you are next and recognized. [LB414]

SENATOR WHITE: Thank you, Mr. President. I want the body to know I fully support this bill and the amendment. And I want to explain a couple of things about the judicial retirement system and, you know, offer also for full disclosure. I was the lawyer that sued on behalf of the judges that established that basically the state makes a contract with judges but also police and other retirees who rely on us and that we cannot unilaterally change the terms of those contracts by just saying you, judge, shall contribute more. We have to talk to them and say, look, we're having a problem, if we do this will you do that. We can't just say, for example, we're not going to fund your pension plan, we're got to let it be insolvent. It's a violation of the constitution that says the state must respect the integrity of contracts. And we do make a contract with these people. And I also need to disclaim, you know, my father is a retired judge and my

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stepmother is an active judge. We do, however, make a contract with these folks. They make less money, substantially less money on a yearly basis when they become judges than the vast majority of them could make in private practice. If we get the best judges, these are folks that are going to make double what they could make as a judge in private practice, they make much more. Now what they trade for that is a secure pension that is promised to them. And so that's our trade-off. By giving them this pension, which generally is not expensive to us and that's because judges tend not to retire at 65, they tend to work far past that. If you look, judges...it's not unusual at all to have judges who are 70 years old or older working. That changes the dynamics of this pension entirely. The other thing is unlike anyone else, judges can't go to the Commission of Industrial Relations to bargain. They don't bargain. They work, they have their deal and that's it, there's no place for them to go. Senator Karpisek, just so you know, it's a very odd thing but the judge that decided, that made the decision saying there was a contract that the state could not unilaterally breach was a federal judge with zero interest of any type or kind in the outcome of this. We actually had to prevail on him to exercise jurisdiction. And the argument we basically relied on is that every state judge was disqualified because they had an interest in their retirement system. And Judge Kopf was very fair and it was very decent of him to acknowledge that and actually sit and take the case. So the decision was based by a judge who had no financial interest at all in the determination. And finally, the last thing that just really absolutely staggers me, I find myself in deep agreement with Senator Fischer. I'm really worried. She is absolutely right. The treatment that we give county court employees is beyond shameful, it is beyond shameful and it is a scandal. These people handle, for example, all the conservatorship money, a lot of the estate money, and we are talking not only hundreds of thousands but at times millions of dollars. And a county court employee with a family of four qualifies for food stamps, food stamps. That is just inappropriate. We have people in Douglas County leaving county court to go to work for McDonald's, flipping burgers because they actually got a raise increase because the benefits were better. [LB414]

SENATOR ROBERT: One minute. [LB414]

SENATOR WHITE: So all I can tell you is that when Senator Fischer and I agree on something as fundamental as that, I mean, we ought to look at it because that will happen about as often as Haley's comet coming by, folks. But we should seriously look, if we can find it, for money to help the county court employees, they deserve it. Thank you, Mr. President. [LB414]

SENATOR ROBERT: Thank you, Senator White. Senator Fischer, you're next and recognized. [LB414]

SENATOR FISCHER: Thank you, Mr. President and members. You may discount anything that Senator White just said about me previously in his comments. With that,

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Mr. President, would Senator Heidemann yield. [LB414]

SENATOR ROBERT: Senator Heidemann, will you yield to a question? [LB414]

SENATOR HEIDEMANN: Yes. [LB414]

SENATOR FISCHER: Senator Heidemann, earlier I mentioned in the budget the .5 percent increase for the county employees. And you didn't get here in time to correct me. And would you correct me now, please. [LB414]

SENATOR HEIDEMANN: Thank you, Senator Fischer. The .5 was not what they got for a salary increase. The .5 was in addition to the salary increase that they have scheduled. They get...I think NAPE/AFSCME was at 2.9 the first year, 2.5 the second year. The .5 would be on top of that is the point, I think, that needs to be made. [LB414]

SENATOR FISCHER: And the other part of that increase you said was in the main-line budget bill. Is that correct? [LB414]

SENATOR HEIDEMANN: Yes, that's correct. [LB414]

SENATOR FISCHER: Okay, thank you very much. I did want to clear that up. I don't like to have misinformation out on the floor so I appreciate Senator Heidemann coming in and taking care of that. I would also again like to thank Senator Pankonin for his work. I think he has done an excellent job as Chairman of the Retirement Committee. And he has good, good committee members to work with. I do support this bill. But I truly believe there are questions out there and one of those being the fee increase. And after the discussion that we had at the beginning of session when a number of senators opposed that fee increase in a previous bill and we heard...we have heard discussion for a couple of months with people concerned about the fee increases. So we need to be clear that, yes, this is a fee increase. They aren't all bad, they aren't all bad user fees. With that again thank you, Senator Pankonin. And I urge your support for the amendment and the bill. Thank you, Mr. President. [LB414]

SENATOR ROBERT: Thank you, Senator Fischer. Those wishing to speak: Senators Ashford, Council, Price, and Wallman. Senator Ashford, you're recognized. [LB414]

SENATOR ASHFORD: I'd give my time to Senator Council, if she'd... [LB414]

SENATOR ROBERT: Senator Council, you're recognized. [LB414]

SENATOR COUNCIL: Thank you, Mr. President. Thank you, Senator Ashford. I just wanted to rise in support of the amendment and the underlying bill. And when I pushed my button I didn't know whether the points that needed to be made would be made. And

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Senator White, I think, made those points very persuasively and very aptly. And that is that you have to look at the contract. And when individuals enter into the relationship with the state of becoming a judge they consider the salary, they consider the benefits. And quite frankly when you look at what...as Senator White mentioned, what an outstanding attorney with significant trial experience could make in private practice compared to what he or she makes on the bench, clearly one of the factors that is taken into consideration is the retirement benefit. And I also wanted to point out, because there was a discussion about in one instance treating...the judges being held to the same standard as other state employees but in the other instance not. Clearly, other state employees came in and sat down with the Retirement Committee. And I commend Senator Pankonin for his work in negotiating the arrangement with the judges with regard to their additional increase. But judges aren't treated the same as these other state employees under the state budget as it's presented. Senator Heidemann just spoke to the salary increases for county employees. But just state employees in general you're talking about 2.9 percent the first year and 2.5 the second year. The judges aren't getting that. When it came before the Judiciary Committee, the Judiciary Committee reduced the amount of the salary increase for the judges. So while we were expecting the judges to take a salary...lesser increase in their salary than other employees, I can kind of understand they're reticent to come to the table to talk about providing additional funds to the retirement plan. So...and I think it's rather significant that the judges did come forward and agree to contribute an additional percent to the retirement fund for these purposes and save this body from having to reach into General Funds to cover that shortfall. And again, I commend Senator Pankonin, I commend Senator Ashford and the members of the Judiciary Committee for addressing this in a manner that I think is probably at the most economically responsible, and that's just charge a...increase the user fee. I mean the people who are paying these are the people who are utilizing the courts. And we do have available, if any senators would like to see it, comparisons of court fees in the state of Nebraska to any other jurisdiction in close proximity. And our court fees are dramatically lower than the court fees in comparable states in the region. So we're still, you know, trying to be aware of the impact that fees have on the residents of the state. But I think we're being fiscally prudent in this regard to increase the court fees by a dollar to cover the retirement shortfall. And with that, I urge everyone to support AM1236 and the underlying bill. [LB414]

SENATOR ROBERT: Thank you, Senator Council. Senator Council, your light is on next. Senator Council waives. Senator Price, you are recognized. [LB414]

SENATOR PRICE: Thank you, Mr. President, members of the body. I did not lose my voice. I've been sitting here today listening to the conversations. And the points I wanted to make and, as Senator Council said, other members have already brought up. I did want to ask Senator Pankonin a question, if he would yield. [LB414]

SENATOR ROBERT: Senator Pankonin, would you yield to a question? [LB414]

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SENATOR PANKONIN: Yes, I would. [LB414]

SENATOR PRICE: Senator Pankonin, congratulations to you for the yeomen's work you and your committee do in this tough area. But the question I have is, are we forever saddled with this burden of market fluctuations and the next one that comes along of this magnitude we'll be back at it again. Is that pretty much where we're subject to the whims of the market? [LB414]

SENATOR PANKONIN: Senator Price, to a certain extent we are. I think the thing that Charlie passed out last week showed how unusual this last drop was. But oftentimes we've had severe drops in some of the earlier ones, especially the 1973-74, '75 period, it was very V-shaped. We have to realize that the market, which our plans aren't just predicated on the stockmarket, but it's gone from 7,000 to 8,400, which is a nice, nice jump here over the last couple of months and hopefully it will continue. I think the important thing to note is that last June 30 our plans were, and this one in particular was at 107 percent actuarially sound and actuarial soundness is based on a long period, like 30 years, that all of our plans were and fortunately they were. A lot of states were already in a deficit situation, then had the market plunge, and they will have a very, very difficult time catching up. I think we do have a good opportunity with participation of all employee groups to get these back on track. These plans have a long history behind them and actually to end them would even be a worse situation because we would still have the legal obligation without any new money coming in. So I think our best plan is to get more funds flowing into them while the markets recover. And I think then we can be back in sound shape in short order. [LB414]

SENATOR PRICE: Thank you very much, Senator Pankonin. I take from your words that once again we are very fortunate that the prudent efforts of those who have come before us left us in a good shape to deal with the inevitability that we faced here recently. Thank you very much. And with that, I would yield any time remaining to Senator Lautenbaugh if he should choose to use it, Mr. President. [LB414]

SENATOR ROBERT: Senator Lautenbaugh, 2:18. [LB414]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. And I will be brief. No one wants to raise costs, no one wants to raise fees. We struggled with this. I'm not going to replot the same ground everyone else has. But this is a prudent thing to do and the right thing to do. I thank Senator Pankonin, I thank Senator Ashford for his leadership. I would ask you to vote in favor of the amendment and the underlying bill. [LB414]

SENATOR ROBERT: Thank you, Senator Lautenbaugh and Senator Price. Senator Wallman, you are next and recognized. [LB414]

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SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, have been listening very carefully to this. And this is a tough issue for me, you know. We as independent farmers or businesspeople have to put in our own retirement. If it goes down, you know, our income goes down. But state employees, if they depend on this, I've been...I am a state employee now but I don't put any retirement fund in there. So if Senator Pankonin would yield to a question. [LB414]

SENATOR ROBERT: Senator Pankonin, will you yield to a question? [LB414]

SENATOR PANKONIN: Certainly would. [LB414]

SENATOR WALLMAN: Thank you, Senator. Do you think this is a viable package for four or five, what is it a five year sunset? [LB414]

SENATOR PANKONIN: Senator Wallman, there is a five year sunset. And if you can predict what the markets do, I can answer that question better off. And if you can predict that, I don't think you'll be here very long, right. (Laughter) [LB414]

SENATOR WALLMAN: Right, thank you. I, too, want to thank Senator Pankonin and the Retirement Committee. That's an emotional issue. We're going to deal with it as a nation, I think, on Social Security and we have to do something. And so, believe it or not I will punch green. Thank you. [LB414]

SENATOR ROBERT: Thank you, Senator Wallman. Senator White, you are next and recognized. [LB414]

SENATOR WHITE: Thanks, Mr. President. And just for some history on the background of this. Senator Price asked some good questions. And I thought if he was still here I'd answer what his assumption was. But let me explain for the other...there he is, others who are on the floor. You know, are we tied to the market fluctuations on this. The reality is when this was setup it was a General Fund obligation and the judges were going to contribute a portion of it. And then we entered into a long-term expansion stockmarket. And for many, many, many years there was no need for General Fund contributions at all. And so actually, Senator Price, I think it's the reverse of what you thought. It was initially conceived of as a General Fund obligation that we are funded as a body to continue to pay. The markets growth in investments as well as the fact the judges tend to retire at a much older age and enter into getting benefits much later, the increase in the benefits over the years have relieved us on most years from the obligation to make up the difference. So just so...and the history is kind of a funny thing. But we got so used to the market expanding that we thought it was no longer our obligation. But it always was, it was the market that temporarily relieves us of it, just to be clear. This is, and I'm a person who represents a lot of poor people, a lot of civil

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rights actions. I do a lot of pro bono stuff, work. And I will tell you our fees are very low. And I've been shocked, the federal court systems fees are much higher and they raise them for all kinds of reasons, many of which I don't agree with and they've become really burdensome. We've been very good stewards. Our courts are open and I can assure you that if we had a person who really couldn't afford this and an attorney went to the judge on it you would get it waived, I'm of utmost confidence you...the access to the courts clause of our constitution in the case of someone who is truly impoverished they would waive it, we'd find a way. So we do not close the doors to the court. This is a user fee. I think that in this environment is about the best we can do. And I think it is a good bill. I support Senator Pankonin's amendment and the underlying bill. Thank you, Mr. President. [LB414]

SENATOR ROBERT: Thank you, Senator White. Seeing no other lights on, Senator Pankonin, you're recognized to close on AM1236. [LB414]

SENATOR PANKONIN: Mr. President, I'll waive. [LB414]

SENATOR ROBERT: Thank you, Senator Pankonin. Members, the question before the body is, shall AM1236 be adopted to LB414? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB414]

CLERK: 37 ayes, 0 nays on the adoption of the amendment. [LB414]

SENATOR ROBERT: AM1236 is adopted. [LB414]

CLERK: I have nothing further on the bill, Mr. President. [LB414]

SENATOR ROBERT: Returning to discussion on LB414, are there members wishing to speak? Seeing none, Senator Ashford, you're recognized to close on LB414. [LB414]

SENATOR ASHFORD: Thank you and thank you, members, for the discussion. I, too, have a relative, my brother has been a district judge for a number of years and was a county judge before that. He's still talking. (Laugh) No, sorry, Senator White, it just came right off... (laugh), no. I appreciate the comments. And I'm very proud of the work of our judiciary and a number of the members have spoken to that and I agree with them. It is a tough, tough job. Protection orders alone, domestic relations, all the criminal cases that are tried in the district court and the follow-up to those cases. It's a difficult, difficult job. The judges receive a good salary, it's a solid salary. But Senator White is absolutely right and Senator Council, they know because they're in the practice, they take a significant discount to what they could be making. They do it for the good of the state in most respects. I'm very proud of the work they do. And I would certainly urge the advancement of LB414. Thank you. [LB414]

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SENATOR ROBERT: Thank you, Senator Ashford. Members, you have heard the closing to LB414. The question before the body is, shall LB414 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB414]

CLERK: 40 ayes, 0 nays on the advancement of the bill. [LB414]

SENATOR ROBERT: LB414 does advance. Next item on the agenda. [LB414]

CLERK: LB414A by Senator Ashford. (Read title.) [LB414A]

SENATOR ROBERT: Senator Ashford, you're recognized to open on LB414A. [LB414A]

SENATOR ASHFORD: Yes, simply put this is the A bill that follows the underlying bill and I would urge its adoption. Thank you. [LB414A]

SENATOR ROBERT: Thank you, Senator Ashford. Members, you have heard the opening to LB414A. Are there members wishing to speak? Seeing none, Senator Ashford, you're recognized to close. Senator Ashford waives his opportunity. The question before the body is, shall LB414A advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB414A]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB414A. [LB414A]

SENATOR ROBERT: LB414A does advance. Next item on the agenda, Mr. Clerk. General File. [LB414A]

CLERK: LB629 by the Business and Labor Committee. (Read title.) Introduced on January 21, referred to the Business and Labor Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB629]

SENATOR ROBERT: Senator Lathrop, as Chair of the Business and Labor Committee, you're recognized to open on LB629. [LB629]

SENATOR LATHROP: Thank you, Mr. President. Good evening, colleagues. You may not appreciate this or understand this before tonight, but the Business and Labor Committee wears a number of different hats. One of the responsibilities of this committee is to deal with claims bills. We deal with them in two separate bills. The first one we'll deal with tonight is those bills we intend to deny, that's LB629, and let me talk about...there's just a few claims that we have in LB629. The first one is a claim filed by Bomgaars Supply against the state of Nebraska. It's only for \$317.64. This was denied

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because it was filed out of time, that being longer than two years after the contract was entered into. The second is a claim against NETV by a fellow named Steve Lenzen. The claimant alleged in this one that he was terminated in violation of his RIF rights and is owed 90 days of pay. The agency asserts the claimants position was not eliminated. NETV alleges the claimant shared confidential information about the television production in violation of a nondisclosure agreement. This was denied by the Claims Board and on consideration by the Business and Labor Committee we agreed that it should be denied and it is therefore included in LB629. The third claim is made by Erwin W. Jefferson, III against the Nebraska Supreme Court and that is a claim for \$95,000. The claim stems from a 2001 Douglas County Court decision finding the claimant did not have an inheritance right in his father's estate. He then made a claim against the Supreme Court who adjudicated the claim. The Claims Board believes that this claim should be denied and the Business and Labor Committee agreed. These are the three bills or the three claims making up LB629. And a vote, this is a little bit kind of...I want to be clear about LB629. A vote in favor of LB629 is a vote to affirm the decision of the Business and Labor Committee to deny these particular claims. And I would encourage your support of LB629. Thank you, Mr. President. [LB629]

SENATOR ROBERT: Thank you, Senator Lathrop. Members, you have heard the opening of LB629. Members wishing to speak, Senator Giese, you're recognized. [LB629]

SENATOR GIESE: Thank you, Mr. Speaker. And thank you, Senator Lathrop, for those comments. One of the claims that was disapproved by LB629 it was a claim for \$317.64 brought against the State Building Division by one of my constituents. While the amount is minor, I believe the situation that brought its disapproval warrants attention by the Legislature. In August 2005, officials of the Norfolk Veterans Home purchased a variety of materials in Sioux City and were billed for their purchases. The invoice was misplaced. And in December of 2007 the officials at the Veterans Home finally told Bomgaars officials that they would have submit their claim to the State Claims Board, which they did in January 2008. And the board rightfully denied the claim because the statute of limitations had expired. The constituent then brought this claim to me, no longer today does business with the state. And I rise solely to express my frustration with the situation where there is money that is owed by the state, is not paid due to errors by an employee of the state, I believe it is our duty as representatives to ensure the state pays its bills. And I hope that this is merely an isolated incident and not part of a broader problem. Thank you. [LB629]

SENATOR ROBERT: Thank you, Senator Giese. Senator Council, you're recognized. [LB629]

SENATOR COUNCIL: Yes, quickly if I may. To respond to Senator Giese and, Senator Giese, the committee, and I think as Vice Chair my chair shared this opinion, we took a

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very careful and considered look at the claim. And we actually did a little additional research on the matter. And quite frankly, we had some difficulty under the circumstances we agree that the state ought to be paying. But based upon the information that was presented we were presented with evidence that your constituent had done business with the state of Nebraska over a considerable period of time, knew what the process was for submitting invoices for payment, and for whatever reason in this situation, despite his longstanding business relationship with the state chose not to follow up on the invoice. And it was my understanding, and maybe I'll yield...I'll ask Senator Lathrop if his notes...if he has them with him. It was my understanding that he had failed to submit an invoice. And then when he realized that he had contacted the Veterans Home and they told him, well, the two years is past, you have to submit a claim now. So he had...at least the information we had before us was that he hadn't submitted an invoice to the state. And then two years later decided to do it. And our concern was that if we granted this claim, we would be faced with other situations where people, for whatever reason, failed to submit their claim in a timely fashion, and we would be then in a position of trying to judge these on their individual merits as opposed to just applying the statute. So I just wanted to assure you that we gave careful consideration to the issue and it's based on the facts that we had available to us. I think it was the consensus of the committee that the constituent was as responsible if not completely responsible for not submitting the invoice in a timely fashion. And I'll yield what balance of my time to Senator Lathrop to correct anything that was (inaudible). [LB629]

SENATOR ROBERT: Senator Lathrop, 2 minutes, 20 seconds... [LB629]

SENATOR LATHROP: That's...thank you, Senator Council. And that's certainly my recollection as well. And the concern expressed by the Claims Board was that if we allow this claim, which is out of time, then the next one that comes along may be for \$40,000 and not \$317. And the difficulty and the whole idea behind the statute of limitations is you need to be able to close your books and know that you don't need to look back any further than two years. And while I know Bomgaars, and I think they're up in South Sioux and in Norfolk, they're a good business in the state of Nebraska and they did provide the materials. There's another principle here and that is we got to have timely claims or we have difficulty doing business as a state. [LB629]

SENATOR ROBERT: Thank you, Senator Lathrop. Seeing no other lights on, Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is, shall LB629 be advanced to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB629]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB629]

SENATOR ROBERT: LB629 does advance. Next item on the agenda. [LB629]

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CLERK: LB628 by the Business and Labor Committee. (Read title.) It was introduced on January 21, referred to Business and Labor, advanced to General File. There are committee amendments, Mr. President. (AM1116, Legislative Journal page 1188.) [LB628]

SENATOR ROBERT: Senator Lathrop, you're recognized to open on LB628. [LB628]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Again, LB628 represents the claims that we recommend should be paid. There are three varieties. One is a miscellaneous claim, the other are tort claims, and the third are agency write-offs. And because some of them involve substantial amounts of money I'll go through them in sort of an abbreviated fashion. The first miscellaneous claim is by the Nebraska Press Advertising Services against the Secretary of State. This is a request for reimbursement for printing and publishing costs for constitutional amendments placed on the 2008 primary and general election ballots. Understand that when the state...this money is actually and the cost of these constitutional amendments is paid by the Press Advertising Services. And the process is they then make a claim for payment. So there's nothing controversial about this. We owe it and the amount is \$87,387.20. The other is a claim for attorney fees. This is actually an amount that's been awarded by the court for \$209,549.92. This is not a settlement amount or an amount arrived at by the Claims Board but rather an amount awarded by the federal court in the matter of El-Tabech v. Clarke. The tort claims are five in number. The first one is against the Department of Roads for \$150,000. This is one in which the court found, this is claim number 04-127, this is against the Department of Roads. This is the judgment, the court found the state negligent in how it posted stop signs at an intersection. And by failing to place rumble bars prior to the intersection a person was hurt, contributorily negligent or partially at fault for their own accident and the judgment amount was reduced as a consequence. The balance is \$150,588.52. In the second claim, also against or arising out of an automobile collision, against Department of Roads. This was a lawsuit filed in Lancaster County District Court where the court awarded damages to Robert and Mavis Johnson and William Kirkwood. This amount is a considerable amount, it's \$3,567,345.14. This is a judgment and not an amount arrived at by settlement so we have little choice in the matter. The third claim involves a motorcycle accident. The value of that claim is \$69,000. That was against a Department of Roads vehicle. Claim...the fourth claim, which is 2007-01467, filed by Trebesch against the Game and Parks Commission. This was also an automobile collision in which the claimant was injured. This was a settlement arrived at. The value of that is \$156,157.32. And finally the last one is against...South Dakota Employee Health Plan brought a claim against the Game and Parks Commission. That related to a subrogation claim for medical expenses it paid on behalf of Kayla Trebesch. The amount of that claim \$57,606.73. We also have agency write-offs and I'll spare you the details because they are relatively small amounts. These typically relate to claims that we can no longer recover. The

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Supreme Court for \$213, the Legislature for \$61, the Department of Health and Human Services \$260,275, that is for benefits that were paid. Health and Human Services tried to collect those and were unable to succeed in that effort. Also the Military Department wrote off \$2,456.79 for unreimbursed funds from the tuition reimbursement plan. The Work Comp Court is writing off \$22,796.08 unrecoverable overpayment of compensation, benefits from the second injury fund. Department of Roads will write-off \$12,249.31, this relates to damaged property, like road signs and the like, for which they've attempted to make claim and have been unsuccessful. The Supreme Court has another \$185, and the State Fire Marshal \$4,470 for uncollectible debt for an annual underground storage tank registration fees. And that does it for the underlying bill, Mr. President. [LB628]

SENATOR ROBERT: Thank you, Senator Lathrop. Members, you have heard the opening to LB628. As the Clerk stated there are committee amendments. Senator Lathrop, as Chair of the Business and Labor Committee, you're recognized to open on AM1116. [LB628]

SENATOR LATHROP: Thank you. And I appreciate your indulgence. I know this isn't really interesting stuff. But the amendment does essentially two things. There is a claim against the Department of Roads for Joshua Vandenberg and his attorney, Vince Powers, for \$2,500 to be paid out of Roads Operation Cash Fund. And the next one is of some consequence. In claim number 2009-03528, the state will pay \$600,000 to settle the claim made on behalf of David Manes for the death of his daughter, Olivia Manes. This is the young lady that died in January of this year at the Beatrice State Developmental Center. The attorney...the claim was made by the Manes'. And in quick order it was settled by the Attorney General's Office subject to our approval. It has been approved, as I understand, by the district court in Lancaster County. Those would be the amendments, Mr. President. [LB628]

SENATOR ROBERT: Thank you, Senator Lathrop. Members, you've heard the opening to AM1116, committee amendment to LB628. Are there members wishing to speak? Seeing none, Senator Lathrop waives closing. The question before the body is, shall AM1116 be adopted on LB628? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB628]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB628]

SENATOR ROBERT: AM1116 is adopted. [LB628]

CLERK: I have nothing further on the bill, Mr. President. [LB628]

SENATOR ROBERT: Returning to discussion on LB628, are there members wishing to

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Speak? Seeing none, Senator Lathrop waives closing. The question before the body is, shall LB628 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB628]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB628]

SENATOR ROBERT: LB628 does advance. Items for the record, Mr. Clerk. [LB628]

CLERK: Amendments to be printed, Senator Nordquist to LB392; Senator Adams, LB392; Senator Avery, LB402. (Legislative Journal pages 1307-1315.) [LB392 LB402]

And a priority motion, Mr. President. Senator Friend would move to adjourn the body until Wednesday morning, May 6, at 9:00 a.m. []

SENATOR ROBERT: Members, the motion is to adjourn until Wednesday, May 6, at 9:00 a.m. All those in favor signify by saying aye. Opposed, nay. The ayes have it, we are adjourned. []